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Lectures, and an Interview National Security, Reforms, Political Reconstruction

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Aam Shownie

We must have no price

By the same author:

Are we deceiving ourselves again?
Where will all this take us?
The Parliamentary System
Falling Over Backwards
Will the Iron Fence Save a Tree
Hollowed by Termites?
Governance, and the sclerosis that has set in
Courts and their Judgments
Harvesting Our Souls
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Mrs. Gandhi's Second Reign
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National Security, Reforms, Political Reconstruction

ARUN SHOURIE

THE EXPRESS GROUP

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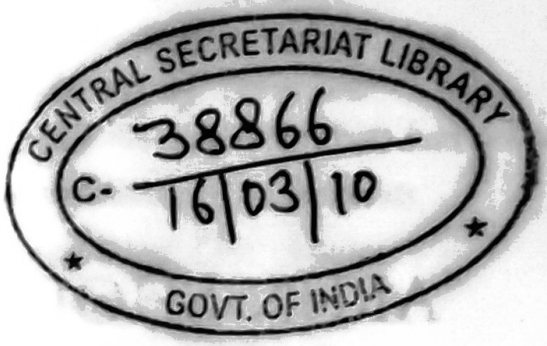

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In memory of our parents
and for our darling, Adit,
from Anita and me

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Introduction

"Dear Mr Shourie, This may come as a surprise to you but I hope it is welcome," writes Vincent M. Concessao, the Archbishop of Delhi. "I used to read about your involvement in investigative journalism during the emergency and appreciated your contribution in exposing the political reality at the time. But in recent times I have heard about your writing a great deal against Christianity. I have not read your books but I am told that there are many misrepresentations of the teachings of Christianity and statements based on false assumptions." He goes on to urge me to read a particular book—one that I have already read—saying that, if I do not have it, he would be very happy to gift me a copy for Diwali! He concludes, "I am sure it will shed some light on your understanding of Christianity and I consider that to be a very helpful service to you and to our people of India who long to be led out of darkness into light, the light of truth."

That last bit about his giving me the book being in his view "a very helpful service to you and to our people of India," and the usual missionary-presumption about us—"who long to be led out of darkness into light, the light of truth"—need not detain us. For the moment what is relevant is that bit about me: " . . . But in recent times *I have heard about your writing a great deal against Christianity. I have not read your books but I am told* that there are many misrepresentations of the teachings of Christianity and statements based on false assumptions . . ." Of the 25 books that I have written, two deal with missionary activity in India. They were published 15 years and ten years ago, respectively. Both arose out of an invitation from none other than the Catholic Bishops Conference of India, the highest body engaged in coordinating the work of different Catholic churches in India and in conducting a dialogue with other religions. As part of its fiftieth Anniversary Celebrations, the Conference invited me to give my assessment of the work of

missionaries in the preceding hundred years. The Archbishop would have had no difficulty in asking his librarian to fetch him the books. Nor would he have been in the dark about the fiftieth Anniversary Celebrations of the Catholic Bishops Conference.

While in replying to the Archbishop I wrote, "I would not have expected an Archbishop to write on the basis of hearsay," the fact is that his stance is all too common today—*"I have heard . . . I have not read your books but I am told . . ."* Everyone has an opinion. Everyone insists he has the right to broadcast it, to act on it. But few bother to look up the facts.

Indeed, so many and, in particular governments, far from looking up the facts, shut their eyes to them. When the facts are pointed out, they seek to bury the messenger in an avalanche of charges. I remember well the reactions to my work in the mid-1960s against socialist controls, against the license-quota *raj,* and how they would cost us a generation in growth: "capitalist propagandist", "an advocate of vested interests". When I wrote and spoke about the consequences that would befall the country, and the Sikhs in particular, from the move to build up Bhindranwale against the Akalis; when I wrote about the reaction that kow-towing to Muslim fundamentalists over the Shah Bano judgment would provoke; when I wrote about the calamitous repercussions that would result from illegal ingress of Bangladeshis; when I wrote about the Islamic basis of Islamic terrorism—in each and every instance, the *mathaadheeshes* of "secularism" shouted "communal, communal". As this book goes for printing, our newspapers are full of stories of incursions by Chinese troops across the border, of the Chinese reiterating their claim to Arunachal on every occasion, of their building a dam across the Brahmaputra. But should we be surprised? The Chinese have made no secret of their view of India—that it is a potential nuisance that must be kept off-balance, and busy in South Asia. Persons like me have been drawing attention for years to Chinese intentions on these matters and to the steps they have been taking in regard to these objectives. Each time this has been done, the charge has been hurled, "Alarmist, paranoid, obsessed with the Chinese . . ." And homilies have been chanted, "There is enough room for both China and India . . . Why not *Chindia*? Why not China and India *together?"*

Yet, what can one do except keep drawing attention to facts? And, when a society does not listen, what can one do except wait for the recoil of consequences, the recoil that will ram the facts in its face? *Tum aaye ho na aaogey, lekin/ Kya karen ghar na intezaar karen . . .*

There are two compensating facts, however. First, the recoil is not long in coming. Remember how imperturbable the then Home Minister was, and for four full years, as some of us drew attention to the spread of the Naxalites' sway? Remember how the Government subdued the problem overnight? By changing the definition of what was a "Naxalite affected district", and thereby reducing the number of affected districts from 169 to 72! How immovable the Government seemed, how tranquil the Home Minister. And today? The Naxalites have accomplished what we could not: they have persuaded ministers and governments.

Second, we live in the freest of countries—nothing comes in the way of our putting the facts across. I have had the opportunity to work in and write in newspapers, in particular *The Indian Express*, and to write books. And like everyone in public life, I am asked to speak every few days. I try to persuade the organizers to think up some new topic. That ensures that I have to study a subject on which I have not worked earlier. Being in Parliament also offers the opportunity to speak on an array of subjects.

Asked to speak for an hour or so, I do so from a few bullet points written out on three-four pages. The lecture over, it is time to get on to the next subject. But last year, as an exercise, I decided to write up soon after they were delivered, the material on which at least some of the lectures were based. The resulting write-ups constitute the first two parts of this book—they cover some of the lectures that were delivered between October 2008 and August 2009; the occasion on which the lecture was delivered is listed in each case. On occasion, while the audience and venue differed—the Rajya Sabha one day, an institution of the Defence Services another—the subject overlapped: defence policy, the conduct of foreign affairs. That led me to emphasize a point or two more than once. Erasing them would have left the argument incomplete. I hope that you, dear reader, will bear with these instances of repetition, and treat them as reiteration!

The third part of the book deals with recent controversies that have engulfed the BJP. While the BJP is the news-peg, so to say, for the essays, as the reader will observe, they sketch the condition of all our political parties. They were written not so much to condemn or lament as to induce improvement. How I wish that the corrective action, which has been commenced in the case of the BJP and a few other parties, is pushed to a conclusion so that they may help the country face the challenges that confront it and to live up to its limitless potential.

National Security

1.

Surprised?

"Our coastal areas are coming under increased threat from terrorist groups, which have decided to use the sea route to infiltrate into India. They also plan to induct arms and ammunition through the sea routes"—that is Shivraj Patil addressing the Directors General and Inspectors General of Police in November 2006. "We understand they (the terrorists) have been collecting information regarding location of various refineries on or near the Indian coastline . . . Some *Lashkar-e-Taiba* (LeT) operatives are also being trained specifically for sabotage of oil installations. There are plans to occupy some uninhabited islands off the country's coastline to use them as bases for launching operations on the Indian coast . . ."

That was the ever-alert Home Minister in November 2006. The Minister of Defence has been no less alert. On 8 March 2007, he was asked in the Lok Sabha, "Whether the intelligence agencies have warned about the possibility of terrorists trying to infiltrate through the sea route or trying to target our offshore installations?" He answered, "Yes, Sir. There are reports about terrorists of various *tanzeems* being imparted training and likelihood of their infiltration through sea routes . . ." He was asked, "Whether maritime terrorism, gun-running, drug-trafficking and piracy are major threats that India is facing from the sea borders of the country?" His answer? "Yes, Sir."

On 9 May 2007, the Home Minister was asked in the Rajya Sabha, "Whether it is a fact that there are strong apprehensions of terrorist threats to the country through the sea route?" "As per available reports," he answered, "Pak based terrorist groups, particularly LeT, have been exploring possibilities of induction of manpower and terrorist hardware through the sea route . . ."

Based on a speech delivered in the Rajya Sabha in the wake of the 24/11 assault on Mumbai, December 2009.

On 8 December 2007, the National Security Adviser, M.K. Narayanan, was educating the world at the 4th Regional Security Summit organized by the International Institute of Strategic Studies, the Manama Dialogue. "According to our intelligence reports," he confided to the assembled Sheikhs and experts, "there are now certain new schools that are now being established on the Pakistan-Afghanistan border, which now specialize in the training of an international brigade of terrorists to fight in many climes. According to our information, recruits from 14 to 15 countries have been identified as amongst the trainees there . . . Training has become extremely rigorous—it is almost frightening in nature . . . Studies are being carried out about important targets, with regard to vulnerability, accessibility, poor security, absence of proper counter-terrorism measures, etc. *The sea route, in particular, is becoming the chosen route for carrying out many attacks, even on land. References to this are to be found replete in current terrorist literature.*" "Given India's experience in dealing with terrorism," he added, "I would like to therefore sound a note of warning, that there is no scope for complacency . . ."[1]

On 11 March 2008, A.K. Antony addressed the "International Maritime Search and Rescue Conference" in Delhi. He warned the delegates of "dangers of terror attacks from the sea in the region". In the course of his address, Antony admitted that the Coast Guard faces shortage of manpower as well as hardware. But "Necessary steps are being taken to strengthen the search and rescue infrastructure of the Indian Coast Guard . . ."

On 13 November 2008, just a fortnight before the assaults at Mumbai, Manmohan Singh warned the BIMSTEC summit, "Terrorism and threats from the sea continue to challenge the authority of the State . . ."

By now it was time for Shivraj Patil to address yet another meeting of the DGs and IGs of Police. Thus on 22 November 2008, that is literally on the eve of the attacks in Mumbai, he told the Police chiefs, "To control terrorism in the hinterland, we have to see that infiltration of terrorists from other countries does not take place through the sea routes and through the borders between India and friendly countries.

[1]Throughout this volume, unless otherwise indicated, words that are italicized in the quotations have been italicized by me.

The coastlines also have to be guarded through Navy, Coast Guard and coastal police. The states' Special Branches and the CID should identify the persons forming part of the sleeper cells and lodging in cities and towns and studying in educational institutions and working in industries and professions . . ."

And four days later, the terrorists, using the exact same sea route, do the exact same thing that these worthies have been warning others about. Are they consultants to Government or ones running the Government? Is their job to issue warnings to others or to see that the warnings are acted upon?

Warning given, the job is done

But that is the fate of warnings in this system. After all, that very sea route was used to smuggle explosives for the blasts across Bombay in 1993. Were those blasts not warning enough?

Seven years later, in 2000, the warning and the lesson were made explicit yet again. Four Task Forces were set up in the wake of the Kargil War. The one on Border Management warned, "The long coastline with its inadequate policing makes it easy to land arms and explosives at isolated spots on the coast." It recalled that this is exactly how explosives were smuggled into Maharashtra in 1993. "The situation, if anything, has worsened over the years with the activities of the ISI becoming more widespread along the coast particularly by extension into the coast of Kerala . . . Such coastal areas must be particularly kept under surveillance."

There is space here to cite just one example. The Task Force pointed out that the ISI had started using the Lakshadweep archipelago as a major staging point for smuggling arms and personnel into India. The agency used smugglers and their networks, like Dawood Ibrahim and his tentacles, and their routes for doing so. These dons and their networks were given shelter and support in return for helping the agency with its operations against India.

Now, Lakhsdweep has 36 islands. Ten of these are inhabited. Talking of one of these islands, Suheli, the Task Force pointed out that, sea vessels of smugglers apart, "there have been instances of twin rotor helicopters (of the kind used by militaries) landing at Suheli Island and spotting of unidentified helicopters flying in the waters around the islands . . ."

And what were we doing? "Intelligence gathering in the islands," the Task Force recorded, "is carried out by one Inspector, one Sub-Inspector, one Head Constable and three Constables working in the Special Branch at Kavaratti," just one of the 36 islands. "Intelligence gathering in all other islands is carried out by one Head Constable/ Constable who reports to the OIC (the Officer in Charge) of the police station who in turn passes it on to the Inspector (Special Branch) at Kavaratti."

Please read that again: 36 islands; one Inspector, one Sub Inspector, one Head Constable and three Constables on the main island; and one Head Constable/Constable for all the remaining 35 islands . . .

What has happened since, what is the position today, I ask the person who has held the highest posts in intelligence. Exactly what it was then, he says, with one difference. With the upgradation of all posts, the Inspector (Special Branch) at Kavaratti is now designated not as Officer in Charge, but as Joint Assistant Director or Deputy Central Intelligence Officer depending on his cadre . . . As for the other recommendations—patrolling, setting up sensors, and a host of others—things are as they were.

And we are surprised!

I can multiply such examples by the score at no notice at all. Recalling just one thing will be sufficient. When, during a debate on national security in the Rajya Sabha, I began citing such passages from the report of this Task Force, shouts went up from the Congress, "But this is a secret report . . . How has he got it? . . . How is he citing it? . . ." Shivraj Patil remained his composed self, eventually chiding me with the sagacity which even terrorists have by now come to associate with him.

Things to do

First, act on recommendations that are made by committees you set up.

Second, that will not happen unless we send a better type into legislatures and, thence, to governments. When we select leaders who treat the police as their private army; when we select leaders for whom investigating agencies are instruments to fix rivals or let off allies, don't expect the police and agencies to suddenly turn around and forestall terrorists.

Third, remember that little can be achieved unless *every aspect of governance,* is brought up to par. You can't have a first-rate commando force and a third-rate magistracy. You can't have defence and intelligence personnel who will nab terrorists and courts that will let them off, or, better still, enable them to live off the Treasury as State guests for years. And that excellence must reach down to that "Head Constable/Constable" level. When Mr K.P.S. Gill reconquered Punjab for the country, he did so by strengthening and invigorating the local *thana.*

Fourth, that the State of India is weak and has been weakened and *is* being weakened by the day is only one part of the explanation. A weakened and confused society explains as much, and the responsibility lies as much with those who have dissipated national resolve, who have made nationalism a dirty word. That set includes the media as much as politicians. Sixty to seventy thousand killed by terrorism and we are still debating whether we should have a federal investigating agency. Sixty to seventy thousand killed by terrorists and we are still debating whether we should have a special law to bring them to book.

Of course, we must have the agency. Of course, we must have the sternest law in the world. But having the law is not enough. We must enforce it. One side of the picture is that, to pander to its vote bank among Muslims, the Government has been withholding sanction to the law passed by the Gujarat Assembly, even though that law is the exact replica of the law that its own party's Government has passed in adjacent Maharashtra. The other side is that, as the Maharashtra Government does not use the law it has, those who will give shelter and support to terrorists give them with abandon—you just have to think of the quantum of weapons that the terrorists brought in; the detailed local knowledge they had—of the spot at which to land their boats, of the location of the building in which Jews and Israelis were staying, of the insides of the hotels—to see that they could not have executed their plans without the most extensive local help, help given over months.

And enforcing the law means carrying out sentences that the law provides. The Parliament of India is attacked, guards are killed; one of the killers is tried and convicted, the sentence is confirmed by the Supreme Court, and, eight years after the assault, his "papers are still being processed," indeed there are signature campaigns against

executing the sentence. Given these circumstances, the best thing for a terrorist is to succeed in his mission, and then get caught. He will get the best lawyers to defend him. He will get judges who are ever so solicitous about his rights, ever so finicky about procedures. And, of course, he will get activists to shoot off press statements on his behalf. Lawyers better, judges more solicitous, activists more articulate and better networked than any in his own country.

But for any of this to happen, the society has to be clear in its mind. This is, it has for 20 years been, *war*. It can be won only by *overwhelming* the adversary—not by running *after* the terrorist, as K.P.S. Gill says, but by out-running him, indeed by over-running him. Not an eye for an eye. For an eye, both eyes. Not a tooth for a tooth. For a tooth, the whole jaw. Human rights? Yes, we will respect the human rights of the terrorists and their sponsors and their local supporters to the extent that they respect the human rights of our people.

Finally, have a clear realization of the condition of the society and State of Pakistan. Unless you come across evidence that the nature of the State and society of Pakistan has changed, it is idiotic to put faith in the profession of this ruler or that. Remember Musharraf's *"Main naya dil leyke aayaa hun"?* Taliban and Al Qaeda are not the *cause* of the state of Pakistan. They are the *result* of the Talibanization of Pakistani society and State.

Where do you think, and by whom do you think are the teachers instructed to ensure that students from Class 1 onwards "recognize the importance of *jihad";* to ensure that they "must be aware of the blessings of *jihad";* to ensure that they "create yearning for *jihad* in his heart"; to ensure that they develop "love and aspiration for *jihad, tabligh, shahadat,* sacrifice, *ghazi, shaheed"?* Where do you think, and by whom are teachers instructed to ensure that students from kindergarten onwards learn to "make speeches on *jihad* and *shahadat",* and are "judged on their spirit while making speeches on *jihad"?*

Do you think these are instructions issued by the Islamic fundamentalists to *maulvis* in *madrasas?* They are instructions given by the *Government* of Pakistan through official circulars to principals and teachers in *government schools* of Pakistan.

You didn't know that? Exactly. That is a large part of the problem. You will find reams of these and other facts in the 2002 report edited by Pakistani academics, A.H. Nayyar and Ahmed Salim, and published by the Sustainable Development Institute, Islamabad, *The Subtle Subversion: The state of curricula and textbooks in Pakistan, Urdu, English, Social Studies and Civics.*

Get on to the Internet, download and read the report from *www.sdpi.org*. Here is a part of the problem that you can solve by yourself.

2.

Individual Liberty and National Security

Because the British used preventive detention to incarcerate so many freedom fighters, the Congress had repeatedly demanded that the power to do so be taken away from the Government. Hence, when Congress ministries took office in 1937, several provinces abolished the statutes under which this power was exercised. But as Independence came, and the country was plunged in the aftermath of Partition on the one hand and Communist insurrection on the other, Congress governments had to promulgate laws and orders giving them the same power. These orders came to be challenged and were struck down by several High Courts. All the detention orders, in a sense, were superseded by the new Constitution. As Sardar Patel was to tell Parliament, he received frantic calls from provincial governments about the consequences that would follow. On the penultimate day, the day before the Communist detenus would have had to be released, Parliament met in special session—it was a Saturday—and passed the Preventive Detention Act.[1]

In commending the Bill, and while replying to the debate, Sardar Patel made five points. They provide the perspective from which we should weigh the question before us—namely, the proper balance between individual liberty and the requirements of national security.

Conscious of the way that the British had used the power, acknowledging that there was the apprehension that the power can be misused again, the Sardar told the House that "I have passed two sleepless nights when I was asked to take up this measure." However, he added, "When responsibility is placed on one to keep law and order and safeguard the liberties of millions of people, for

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Based on the Justice P.D. Desai Memorial Lecture, Ahmadabad, February 2009.

[1]C.f., Granville Austin, *The Indian Constitution, Cornerstone of a Nation*, 1966, pp. 101-13; also his *Working of a Democratic Constitution, The Indian Experience*, 1999, pp. 53-68; Oxford University Press, New Delhi.

the protection of that liberty and for the fulfillment of that duty one has to take actions which are most detestable."[1]

That allusion to "the liberties of millions of people" constitutes the second axiom we must bear in mind. More than once, the Sardar urged members, who were waxing eloquent about the liberties of individuals against whom the provisions may be used, to bear in mind the liberties of millions that the actions of these few individuals, if allowed to proceed, would snuff out. "I shall now only plead with the House that during the consideration of this measure it fully takes into account the dangers which happily we have so far avoided," Sardar Patel said as he concluded his remarks introducing the Bill, "the dangers which unhappily still threaten us and the explosive possibilities of the situation with which we are faced at present. When we think of civil liberties of the extremely small number of persons concerned, let the House also think of the liberties of the millions of people threatened by the activities of individuals whose civil liberties we have curtailed." "I am using the words 'civil liberties' in connection with these individuals with some reluctance," the Sardar added, "because, for them liberty is synonymous with license and there is hardly any difference between civil and criminal."

But it was not just a question of protecting the liberties of citizens at large; the State must provide the wherewithal to those whom it has charged with the duty to protect it and its citizens. Dismissing the apprehensions as well as the solicitousness, which some members had expressed about those who had been detained, the Sardar said, "They do not want any advice from you. They know how to take care of themselves. Let us take care of the people, of the millions of people who are not able to take care of themselves. Therefore I have brought this measure before the House. This is in order to help those people who are in charge of preserving the liberty of the millions of people in this country in the various States where, through no fault of theirs, these difficulties have arisen."

Next, the Sardar drew the vital distinction between those who oppose a proposal, a policy, a government and those who are out to

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[1]For Sardar Patel's interventions, *Parliamentary Debates*, 25 February 1950, pp. 874-77, 909-12.

break the country, to overturn the entire system through the gun. While introducing the Bill, the Sardar pointed out, "I shall not weary the House by telling it how exactly the communists of India, who have been by far the largest number of detenus, constitute a danger to the existence and security of the State which has been brought into being by the sacrifices and sufferings of millions of our people. It would be a poor return for those sacrifices and sufferings if we fail to preserve the liberty which we have won after so much struggle, and surrender them to the merciless and ruthless tactics of a comparatively small number of persons whose inspiration, methods and culture are all of a foreign stamp and who are, as the history of so many countries shows, linked financially, strategically, structurally and tactically with foreign organizations." Take a moment to reflect on the touchstones that Sardar Patel specified in regard to the insurrectionists:

- "a danger to the existence and security of the State";
- "comparatively small numbers";
- "merciless and ruthless";
- "whose inspiration, methods and culture are all of a foreign stamp and who are, as the history of so many countries shows, linked financially, strategically, structurally and tactically with foreign organizations."

Do these criteria not describe the Islamic terrorists operating in Kashmir and elsewhere today just as well as they described the communists when Sardar Patel used them? "If anybody wishes to seek justification for our policy against them in cold print, he can do so in the pages of the pamphlet which we issued last year illustrating the methods and instances of communist violence," Sardar Patel told the members—as we can today in the reams of literature which the terrorists and their sponsors themselves put out these days.

"I would like to say here that our fight is not with communism or with those who believe in the theory of communism," Sardar Patel went on to observe, "but with those whose avowed object is to create disruption, dislocation and tamper with communications, to suborn loyalty and make it impossible for normal Government based on law to function. Obviously we cannot deal with these people in terms of

ordinary law." "Obedience to law should be the fundamental duty of a citizen," Sardar Patel said. "When the law is flouted and offences are committed ordinarily there is the criminal law which is put into force. But where the very basis of law is sought to be undermined and attempts are made to create a state of affairs in which, to borrow the words of the distinguished patriot, the father of our Prime Minister, 'men would not be men and law would not be law', we feel justified in invoking emergent and extraordinary laws."

He returned to this point as he concluded his reply to the debate that had taken place. "Take the Communist Party in England," he said. "What are they doing? They fought at the polls. They can do so here. Do the British Communists take to violence of this nature? Do they remove rails? Do they dislocate communications? Do they set fire to public property? Do they attack the warders in jails and kill them? Do they attack the police? Here even Ministers and hon. Members are not beyond their contemplation or their range." Because they did not do so, Sardar Patel was saying, extraordinary laws were not being wielded against the British communists; because Indian communists were, in fact, doing so, extraordinary laws just *had* to be used against them. Then he added words we should commit to memory: "When you say that civil liberty should not be interfered with, I will endorse it. I appreciate what is civil liberty, but I hate criminal liberty to commit criminal violence against innocent people, and therefore I am taking every precaution to guard the liberty of innocent people. That is my sacred duty and it is yours to share that duty."

And there was a fifth point: do not go by even the experience of your own detentions under this power, look at the circumstances in which the country is placed today; look at the dangers it must overcome; look at the system of governance it has adopted—one in which every group can contend for office through the ballot box, one in which the most far-reaching changes can be brought about through open, democratic, peaceful means; and look at the means these groups are adopting, look at what they are declaring in their pamphlets and from their platforms: "You must judge this measure not from your past experience of detention of yourselves. You must see that all parties who want to go to the polls have freedom. This is a democratic country now and any party that wants to take advantage

of democratic institutions or democratic organizations or to come into the Government by democratic methods, is quite free, but it will be an evil day if this Government allows the democratic freedom to go to the polls to people who want to destroy democracy by violence and disruption. We will not do it."

How much graver the dangers are that the country faces today: at that time, communists were the only insurrectionist group, today there are scores and scores; at that time, violent insurrection was going on in just one pocket—Telangana; today almost one-third of our 630 districts are affected by Naxalite and other forms of organized violence[1]; the terrorists of today are ten times more fanatical than were the communists of those days, and they are a hundred times more lethally equipped; the communists of those days were linked to foreign powers mostly in an indirect, marginal sort of way. Their inspiration came from abroad, the tactics they were using had been honed abroad, sometimes they waited for instructions from abroad; but today's terrorists and insurrectionists are directly trained, equipped, financed, impelled, directed by a foreign power determined to break India. Hence, the perspective that Sardar Patel set out sixty years ago is sixty times more apt today.

The country's situation

That is the situation in which the country is locked today, the situation that we must bear in mind as we weigh what the balance ought to be between individual liberty and national security:

- A war has been thrust on the country: that it is undeclared; that it is of low intensity; that it does not entail large armies being marched across international borders does not make it less disruptive or less enervating. It just means that it is a different kind of war.

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[1]Of our 630 districts, by now 194 are affected by Naxalites. 58 of these are categorized as "highly affected", 54 are "moderately affected"; 20 districts are affected by terrorism in Jammu and Kashmir; and 51 districts are affected by insurgencies of various hues in the Northeast. In addition, of course, are the number of urban locations across the country which have been targeted successfully by Islamist terrorists.

- All three kinds are waging a war against the country: terrorists who are armed, trained, financed, impelled, given sanctuary and support by foreign powers like Pakistan; Naxalites and other left-wing killers; and secessionists, as in the Northeast.
- Each of them is working to a long-term plan, to break India and to overturn the constitutional order through violence.
- Each of them is fanatical and ruthless.
- Several of them are propelled by enemies of the country like Pakistan.
- Many of them are getting linked and knit together.
- None of the groups could function without the assistance of large numbers of "ordinary citizens".
- Finally, while India has suffered a larger number of casualties—both civilian and those of its security forces—than any other country, its laws and judgement are more permissive; the enforcement of such laws as exist is more woeful; its security forces are less well-equipped; and they have less support in public discourse and, as we shall see, in the rhetoric that often accompanies pronouncements of our courts than in any country similarly affected.

This is the perspective in which we must assess the judgement that have been handed down on the balance between these two desiderata and the shrill voices that are raised each time the security forces grapple with terrorists and their kin, each time a new law is brought forth to deal with the menace.

The balance in the Constitution

The first thing to notice is that the Constitution strikes a balance between the liberty of the individual and what the State must do for its preservation and orderly life. This elementary point needs to be stressed at the outset because so many of our activists set it out of mind as they inveigle against new, necessary legislation as much as against the security forces. In particular, no basic freedom guaranteed under Article 19 has been made absolute.

- The freedom of speech and expression guaranteed by Article 19(1)(a) is subject to reasonable restrictions that may be placed by the State "in the interests of ***the sovereignty and integrity*** *of*

India, the security of the State, friendly relations with Foreign States, *public order,* decency or morality, or in relation to contempt of court, defamation or *incitement to an offence."*[1]

- The freedom to assemble peaceably and without arms guaranteed by Article 19(1)(b) is contingent, that is evident from the very words in which it has been framed. We do not have the freedom to assemble; we have the freedom to assemble *"peaceably and without arms".* Furthermore, the Constitution gives the State the right to impose such further reasonable restrictions as it deems necessary on the right "in the interests of *the sovereignty and integrity of India or public order."*
- The freedoms to form associations or unions guaranteed by Article 19(1)(c) is subject to reasonable restrictions that the State may impose "in the interests of *the sovereignty and integrity of India or public order* or morality."
- The freedoms to move freely within India and to reside and settle in any part of the country guaranteed by Article 19(1)(d and e) are subject to reasonable restrictions that the State may place "in the interests of the general public or for the protection of the interests of any Scheduled Tribe."
- And the freedom to practise any profession, or to carry on any occupation, trade or business guaranteed by Article 19(1)(g) is subject to reasonable restrictions that the State may impose "in the interests of the general public" and in requiring specific technical qualifications for professions, etc., as well as for conducting the business itself.

Two points are evident: no right has been made absolute; and the sovereignty and integrity of India, the security of the State, and public order figure repeatedly as grounds on the basis of which the State may impose reasonable restrictions on individual rights.

Two lemmas

The fact that the State is allowed to impose only *reasonable* restrictions yields two lemmas:

- What is reasonable has ultimately to be adjudged by the Judiciary.

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[1] I have italicized the grounds that bear on our current subject.

- What is reasonable naturally depends on the circumstance in which the country is placed: what is unreasonable in normal, peaceful times may well be reasonable when the country is faced with war waged by a ruthless, determined enemy.

The latter lemma is often obscured and yet it is vital—and that for two important reasons:

- All too often the courts hand down pronouncements without regard to the circumstances in which particular actions were taken. Two dissimilar but typical examples will illustrate how this inflicts injury on the country:

    - In June 1975 the country was shut down, thousands were thrown into prisons, liberty was snuffed out to keep Mrs. Indira Gandhi in power. The Supreme Court shut its eyes to this circumstance, this obvious fact and delivered the infamous *ADM Jabalpur v. Shivkant Shukla*. In August 1975, the election law was amended with retrospective effect solely to shield Mrs. Indira Gandhi from the consequences of the Allahabad High Court judgement. It was put in the IXth Schedule. The brazen 39th Amendment was rammed through. The purpose, the context was evident from the precise provisions as much as from the timing. Yet, in *Raj Narain v. Indira Nehru Gandhi*, even as it waxed eloquent on democracy being the essence of liberty, and free and fair elections being the essence of democracy, the Supreme Court delivered itself of observations and conclusions that are an embarrassment to everyone who cherishes an independent Judiciary.[1]
    - Insurgency gripped Punjab. The state was wrenched out of the writ of India. Pakistan was actively aiding the terrorists. Witnesses would not come forward even when they had seen their own relatives being murdered by terrorists. The local judiciary was intimidated to the extreme. It had ceased to function. Eventually, in 1991, as you will recall, sub-section 3A was inserted into section 197 of the Criminal Procedure Code: it provides that no court shall take cognizance of any offence alleged to have been committed by any member of the Forces charged with the maintenance of public order in a state acting in the discharge of his official duty

[1]For a brief examination of this judgement see my *The Parliamentary System, What we have made of it, What we can make of it*, ASA, 2007, pp. 214-19.

> while the state was under President's Rule *except with the previous sanction of the Central Government*. Sad to say, once the danger had been rolled back—and the danger had been to the very existence of India as we know it—the Supreme Court completely shut its eyes to the conditions that had prevailed; it virtually extracted "sanction" from the Central Government; and the result was that the very persons who at the risk of their lives had saved India from being dismembered, were arrayed in proceedings, indeed many of them were locked up in the same prisons where the terrorists were lodged. All in the name of life and liberty.[1]

- The problem does not end with the initial injury to the country. When courts ignore the context, as the Supreme Court did during the Emergency, in the next round, surcharged with guilt, they *overcompensate*. This is what happened in the aftermath of the repudiation of the Emergency by the people and the ouster of Mrs. Gandhi in 1977. A decision like *Maneka Gandhi v. Union of India,* the reading of more and more things into "life and liberty" in Article 21 typify the overcompensation.

The consequence is as debilitating as it is predictable. Just as *ADM Jabalpur* snuffed out liberty in the name of securing the State and gave indefensible license to the coercive apparatus of the State; the ever swelling enlargement of Article 21 and what was legislated into it by the Supreme Court in the name of liberty, a matter to which I shall turn in a moment; and the grandiloquent rhetoric in which the judgement were couched, unduly inhibited the police and other agencies of the State in the next round.

What has happened to the balance

Articles 21 and 22 enable us to glean the further consequence of ignoring context and circumstance. Judgments on these two Articles, all for the furtherance of, and in the name of liberty and life, are legion, and well known. I will draw your attention to just a few facts in regard to them.

First, in both the Articles, the Constitution has wisely left latitude to the legislature and the Executive. Thus, Article 21 provides that no

[1]For a brief account of the sequence and circumstances, see my *Courts and their Judgments,* ASA, 2001, pp. 274-78.

person shall be deprived of his life and personal liberty "except according to *procedure established by law*", that is, except by procedure as established by the legislature. Similarly, in Article 22, on two vital matters latitude has been left to the Executive and the legislature. Article 22(5) provides that the grounds on which a person has been preventively detained shall be communicated "as soon as may be" to the detenu so that he is enabled to make use of "the earliest opportunity of making a representation against the order". But in the very next clause, it has been laid down that

> Nothing in 'clause (5) shall require the authority making any such order as is referred to in that clause to disclose facts which *such authority considers to be against the public interest to disclose.*

Similarly, while clause (4) provides that the Executive is to seek and go by the opinion of an independent Advisory Board about whether the detenu may be held for a period longer than three months, clause (7) states that

> *Parliament* may by law prescribe —
> (a) the circumstances under which, and the class or classes of cases in which, a person may be detained for a period longer than three months under any law providing for preventive detention without obtaining the opinion of an Advisory Board in accordance with the provisions of sub-clause (a) of clause (4);
> (b) the maximum period for which any person may in any class or classes of cases be detained under any law providing for preventive detention; and
> (c) the procedure to be followed by an Advisory Board in an inquiry under sub-clause (a) of clause (4).

The legislative history of these Articles and the spirited debates that swirled around them are well known to every student of the Constitution. Recall that in the original draft as prepared by Sir B.N. Rau and *as approved by the Constituent Assembly*, the phrase in Article 21 was not "except in accordance with procedure established by law." It was "without due process of law." One reason it was replaced was what Justice Frankfurter told Sir B.N. Rau: the due process clause had occasioned mountains of litigation in the United States, and would do so in India if retained, and in the end due process will be what the courts insist it is. But there was another

reason. Circumstances can change, and latitude must be left to the legislature to modify the procedure accordingly. That is also what lay behind the latitude that was left with the detaining authority and the Parliament in clauses 6 and 7 of Article 22.

During the Constituent Assembly Debates, several critics warned that leaving so much latitude to the legislature would leave the vital liberty of the citizen to the whims of the majorities of the moment. Consideration of the Article had to be deferred. A week later, the text that had been drafted held. Recall how Dr Ambedkar responded. Here is what he said:

> . . .There are dangers on both sides. For myself I cannot altogether omit the possibility of a Legislature packed by party men making laws which abrogate or violate what we regard as certain fundamental principles affecting the life and liberty of an individual. At the same time, I do not see how five or six gentlemen sitting in the Federal or Supreme Court examining laws made by the Legislature and the dint of their own individual conscience or their bias or their prejudices be trusted to determine which law is good and which law is bad. It is rather a case where a man has to sail between Charybdis and Scylla and I therefore would not say anything. I would leave it to the House to decide in any way it likes.[1]

The amendments to replace "procedure established by law" by "due process of law" were pressed. They were negatived, and the Article as it stands today was adopted.

But the controversies did not end. When the Draft Constitution was being considered a year later, the same sorts of criticisms were leveled again. Members objected to the provision on the ground, among others, that it allowed, in certain circumstances, the Executive to keep a person in detention without the advice of the Review Board. Acknowledging that this latitude was indeed being given to the Executive, Dr Ambedkar observed:

> . . . I admit that that statement is correct. But I also say that it is necessary to make such a distinction, because there may be cases of detention where the circumstances are so severe and the consequences so dangerous that it would not even be desirable to permit the members of the Judicial Board to know the facts regarding the detention of any particular individual. It might be too dangerous, the disclosure of such facts, to the very existence of the State . . .

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[1] *Constituent Assembly Debates*, 13 December 1948, Volume VII, pp. 1000-01.

And it was not the case that the Executive had been given a completely free hand, Dr Ambedkar pointed out. The power to determine which class of cases or under which circumstances, the Executive may continue to detain the person without the advice of the Review Board had been vested in Parliament. And in either instance, there would be a maximum period beyond which the person could not be held under preventive detention.[1]

The words, and with them the latitude that we see today in the Constitution, were adopted. In a word, some class of cases may be so grievous and sensitive, some circumstances may be so perilous that, in spite of the danger such latitude may possibly pose to the liberty of the affected individual, Parliament must be free to determine all three elements: when the detaining authority may proceed to hold on to a person without the opinion of the Advisory Board; the maximum period for which the person may be held; and the procedure that the Board shall follow. Parliament and the Executive would be the best assessors of the circumstances.

Now see what has happened in the name of liberty and life of the individual. First, through a series of judgments—*Cooper, Maneka Gandhi, Sunil Batra* being typical stepping stones—the Supreme Court has *legislated* into Article 21 the very words, the very concept and substance that were explicitly, and after due deliberation, excluded—namely, Due Process. As Justice Krishna Iyer observed in *Sunil Batra v. Delhi Administration*, in his customarily triumphal prose

> True, our Constitution has no "Due Process" clause or the VIII Amendment (to the U.S. Constitution), but in this branch of law, after *Cooper* and *Maneka Gandhi*, the consequence is the same. For what is punitively outrageous, scandalisingly unusual or cruel . . . is unarguably unreasonable and arbitrary and is shot down by Articles 14 and 19, and, if inflicted, with procedural unfairness, falls foul of Article 21.[2]

Thus, by judicial legislation, Due Process has been injected into the Constitution and with it all the ingredients of Due Process. I will come to the ingredients in a moment; for the present, just notice one possible consequence. A case which has been much in the public

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[1] *Constituent Assembly Debates*, 16 November 1949, Volume XI, p. 576.

[2] *Sunil Batra v. Delhi Administration*, A 1978 S.C. 1675, para 53.

eye in the past few years illustrates it. Terrorists assaulted the Parliament on 13 December 2001. Apart from the fact that this attack constituted an assault on our entire system, nine security personnel and members of Parliament's staff were killed saving the Parliament and all who were in it. One of those responsible, Mohammed Afzal, was convicted by the Special Judge for cases under POTA. The sentence was then confirmed with some modifications by the Delhi High Court on 29 October 2003. The death sentence was confirmed by the Supreme Court itself on 4 August 2005. He filed a mercy petition on 8 November 2006. In cases such as *Triveniben v. State of Gujarat*[1], the courts have held that undue delay in carrying out a death sentence amounts to cruel punishment as the trauma that the person undergoes in the meantime is punishment over and above the death sentence that the court had awarded. The same goes for any delay that cannot be validly explained in processing the mercy petition that the one sentenced has filed with the Governor or President.[2] While the Supreme Court has not laid down any specific period delay beyond which the passage of time will automatically be considered inordinate, and while it has said that courts shall examine the delay and what caused it in each case by itself, it has held that, where no reasonable explanation for the delay is forthcoming, the Court would commute the death sentence to life imprisonment.

Now, consider Afzal Guru's case in the light of these judgments. He was convicted more than five years ago. The death sentence was confirmed by the Supreme Court three and a half years ago. He filed his mercy petition two and a half years ago. No explanation that anyone would regard as reasonable has been forthcoming as to why it has not been possible to process the petition for all this time. The delay is certainly not because of any obstructions that Afzal has put in the way. Would he, a person convicted of the assault on nothing less than the highest institution of our democracy, an assault in which, apart from everything else, nine persons were killed, not then be able to claim that the death sentence should be commuted to

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[1] *Triveniben v. State of Gujarat*, (1989) 1 S.C.C. 678, at 694.

[2] *Jumman Khan v. State of U.P.* (1991) 1 S.C.C 752, at 760; *Madhu v. Union of India*, (1989) 4 S.C.C. 62, para 3; *Daya Singh v. Union of India*, (1991) 3 S.C.C. 61, at 63; *Javed v. State of Maharashtra*, A. 1985 S.C. 231, para 4. My attention was first drawn to these cases upon reading Durga Das Basu, *Human Rights in Constitutional Law*, Prentice Hall, 1994.

life imprisonment as he has already been subjected to inhuman and cruel punishment?

The second feature, one that has far-reaching consequences for the balance between personal liberty and national security is the way the ambit of Article 21 has been stretched. As is well known, by now, "life" has been held to mean not just physical life, but life with dignity, and all its constituents. Where Article 21 of the Constitution provides the right not to be deprived of life and liberty except in accordance with procedure established by law, the Supreme Court has read in the meaning that, by virtue of this Article the State has a positive duty to ensure for all livelihood, relief and compensation in cases of radiation, better homes for the destitute, remand homes for children, the right of a detenu to write his memoirs, environmental remediation, security that his telephone will not be tapped, economic empowerment through distributive justice, identification and release of bonded labour, the right to decent housing, the right of people in the hills to roads . . . [1] Each objective that has been urged by the Court is eminently desirable. But it is just as undeniable that, when all these obligations are piled on to as flailing a State as ours, it will have that much less by way of attention and resources to devote to its primary functions of ensuring national security, law and order, even ordinary justice. And remember, Article 21 is applicable to both Indian citizens and foreigners lawfully in India!

The third extension has been in regard to Article 22, namely, in regard to the procedures that must be adhered to in regard to those who are suspected to have broken the law. The courts have repeatedly invoked the adage, "The history of liberty is the history of procedural safeguards." True, but now consider the consequences of the extent to which the safeguards have been stretched. You will recall the anguish of the Supreme Court at custodial deaths. It deliberated over the relevant case for ten years—that is one aspect: even when the Court feels outraged at something, even when it feels that the impugned conduct is "uncivilized", that it is "the worst form of violence," the Court takes ten years to come to a conclusion. But for the moment, I am not on that aspect. For the present what concern us are the directions that the Supreme Court laid down to prevent this

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[1]For a typical enumeration of some judgments to this effect, see Arvind P. Datar, *Datar on Constitution of India*, Wadhwa and Company, Nagpur, 2001, pp. 215-17.

abuse. From the moment the person is to be arrested, this is how the Supreme Court would have the personnel of the security forces conduct themselves:

(1) The police personnel carrying out the arrest and handling the interrogation of the arrestee should bear accurate, visible and clear identification and name tags with their designations. The particulars of all such police personnel who handle interrogation of the arrestee must be recorded in a register.

(2) The police officer carrying out the arrest of the arrestee shall prepare a memo of arrest at the time of arrest and such memo shall be attested by at least one witness who may either be a member of the family of the arrestee or a respectable person of the locality from where the arrest is made. It shall also be countersigned by the arrestee and shall contain the time and date of arrest.

(3) A person who has been arrested or detained and is being held in custody in a police station or interrogation centre or other lock-up shall be entitled to have one friend or relative or other person known to him or having interest in his welfare being informed, as soon as practicable, that the attesting witness of the memo or arrest is himself such a friend or a relative of the arrestee.

(4) The time, place of arrest and venue of custody of an arrestee must be notified by the police where the next friend or relative of the arrestee lives outside the district or town through the Legal Aid Organization in the District and the police station of the area concerned telegraphically within a period of 8 to 12 hours after the arrest.

(5) The person arrested must be made aware of this right to have someone informed of his arrest or detention as soon as he is put under arrest or is detained.

(6) An entry must be made in the diary at the place of detention regarding the arrest of the person which shall also disclose the name of the relative or friend of the person who has been informed of the arrest and the names and particulars of the police officials in whose custody the arrestee is.

(7) The arrestee should, where he so requests, be also examined at the time of his arrest and major and minor injuries, if any present on his/her body, must be recorded at that time. The

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"Inspection Memo" must be signed both by the arrestee and the police officer making the arrest and its copy provided to the arrestee.

(8) The arrestee should be subjected to medical examination by a trained doctor every 48 hours during his detention in custody, the doctor being from the panel of approved doctors appointed by the Director, Health Services of the state or Union Territory concerned. The Director, Health Services should prepare such a panel for all *tehsils* and districts as well.

(9) Copies of all the documents including the memo of arrest referred to above, should be sent to the *Illaqa* magistrate for his record.

(10) The arrestee may be permitted to meet his lawyer during interrogation, though not throughout the interrogation.

(11) A police control room should be provided at all district and state headquarters, where information regarding the arrest and the place of custody of the arrestee shall be communicated by the officer causing the arrest, within 12 hours of effecting the arrest and, at the police control room, it should be displayed on a conspicuous notice board.[1]

Now, imagine you are from one of our security forces. Transport yourself to the Kashmir Valley. An encounter is taking place. Some of your colleagues have been gunned down by the Pakistan-trained, local terrorists. Two of them have been killed. Two are taken alive. Proceed step by step in accordance with the directions of the Supreme Court:

- ❒ Make sure that, as you approach the terrorists to arrest them, you are wearing your identification tags bearing your name and designation accurately and clearly. Make sure that these tags are clearly visible—for all bystanders, among whom may be persons associated with the terrorists, to note down. Make sure that your particulars are recorded in a register at the local police station—from which, as you know, getting to know your identity and the

[1] *D.K. Basu v. State of West Bengal*, (1997) 1 S.C.C. 416, at 435-36. See also, *D.K. Basu v. State of West Bengal*, (1998) 9 S.C.C. 437; and *Datar on Constitution of India*, *op. cit.*, p. 246 for the course that the case took in the Supreme Court.

whereabouts of your family will be the easiest thing in the world for the sponsors and coordinators of the terrorists.

- ❐ Prepare a memo recording that you have arrested the person. Have either a member of his family or a person who is respected in the locality witness the arrest. Have him or her sign the memo. Request the person you are arresting to countersign the memo.
- ❐ Unless the person who has signed as a witness is himself a friend or relative of the terrorist, be certain that you inform a friend or relative of the terrorist at the earliest possible.
- ❐ If the friend or relative resides elsewhere, inform him by telegraph through the legal aid organization of the district and the local police station.
- ❐ Make certain that the person you have arrested is informed that it is your duty to inform his friend or relative, and that you have carried out your duty.
- ❐ Write down all this—names, place, the times at which the steps have been taken and all—in the diary.
- ❐ Have the person examined for injuries. Record these. Request him to sign the record of the examination. Sign it yourself. Furnish a copy to the terrorist.
- ❐ Have a trained doctor from a panel approved by the Director of Health Services in Srinagar examine him every 48 hours.
- ❐ Each time you and your colleagues interrogate him, ensure that all the foregoing steps are taken—for instance, that your name and designation tags are clearly visible to the person.
- ❐ Send copies of all documents—several of which will include your name and designation as well as of other police officials and the doctor—to the magistrate of the locality.
- ❐ If he so wants, enable the terrorist to meet his lawyer periodically during the time you are interrogating him.
- ❐ Ensure that the police control room at the district headquarters and in Srinagar is informed of the arrest and that both display the information "on a conspicuous notice board."

The Court might as well have added a final guideline: "And await the reprisals that will surely come down on you and your family"!

Is all this just miasma? Is it so because Article 22(3) expressly states that the protections under its first two clauses do not apply to alien

enemies—but we assumed in our example that the terrorists were locals; nor to persons who are detained under a law that provides for preventive detention, and the laws on terrorism do provide for such detention? Please read *D.K. Basu* and see if, as a beleagured security official, you will take the risk of proceeding on the assumption that the directions apply only to persons who are entitled to the protections of Article 22, and, hence, not to the persons you are apprehending.

But even though Article 22 does not apply to "alien enemies" and those who are being arraigned under laws permitting preventive detention, Article 21 certainly applies to them also. May the court not hold that treating a suspect and detenu in accordance with these guidelines follows directly from Article 21 and the numerous judgments that have been given on it? That care for his physical and mental safety is an obvious part of the person's right to life and liberty, both being taken to include all the elements that the Supreme Court has held fall under them? After all, by the grace of the judgments, each suspect and detenu is entitled not just to "animal existence" but to life with dignity. And here, by the *D.K. Basu* guidelines, we are ensuring just his physical survival.[1]

[1]An ambiguity in *D.K. Basu* leads to a typically unwarranted inference. This became clear when a senior Judge of the Gujarat High Court came up to the podium after I had delivered the Justice P.D. Desai Memorial Lecture and sought to "correct the record" as far as the Supreme Court's judgment in this case is concerned. He said that in *D.K. Basu* itself the Supreme Court had clearly stated that the guidelines would *not* apply to terrorists. He was emphatic, saying that he had himself studied the judgment and, in fact, had based his judgment in *Lok Adhikar Sangh v. State of Gujarat* [1998 (1) G.L.H. 768] in part on the distinction that the Supreme Court had made in this regard. He cited paragraph 32 of *D.K. Basu* for this purpose. He must have meant paragraph 33—as paragraph 32 consists of a passage from the judgment of the U.S. Supreme Court in *Miranda v. State of Arizona* to the opposite effect. In paragraph 33 of *D.K. Basu,* the Supreme Court does affirm that the freedom of the individual must yield to the security of the State; and also that "in the very nature of things there would be a qualitative difference in the method of interrogation of such a person as compared to an ordinary criminal." But, in the very same paragraph, the Court is equally emphatic that the methods of interrogation adopted for even such a person shall have to be in strict conformity with the requirements of Article 21. More important, when it sets out the guidelines—in fact, it refers to them as *"requirements"*, and it italicizes the word for emphasis—the Supreme Court in paragraphs 34 and 35 makes them mandatory for *"all cases of arrest and detention"*—no distinction is drawn between terrorists, their accomplices and instigators on the one hand and ordinary criminals on the other. *C.f., D.K. Basu, op. cit,* paras 32-35.

As far as I can make out, these guidelines technically remain binding. They have not been overruled, nor has their ambit been circumscribed by any subsequent judgment. The point is not that custodial deaths ought to be condoned. The point is about the consequence that the remedy which the courts formulate for meeting one ill—that is, of trampling upon the life and liberty of an individual—has for thwarting the incomparably greater evil—that of dismembering the country. And how it is necessary for the courts to bear that latter consequence also in mind. When this is not done, one of two consequences is unavoidable. Either, the hands of the security forces will get so firmly tied that the fight against enemies of the State will be hampered. Or the security forces will be compelled to disregard the guidelines in practice. In either case, respect for law and the courts will be called into question.

The other stream of judgments

We saw, first, the balance that was deliberately struck in the Constitution between an individual's liberty and the country's security. Next, we saw how, during the Emergency, in part by taking at face value the assertions of Mrs. Gandhi and her entourage about the threats that the country faced, the Supreme Court snuffed out the individual's liberty ostensibly to save the country and its system of governance. And then we saw how that very Court, in many instances those very Judges, overcompensated in favour of the individual's liberty so much so that some of their directions and rulings tie the hands of those on whom has been placed the responsibility of the country's security. As time has gone by, the terrorists, by their depredations, have restored the balance, and brought us another stream, a much more realistic stream of judgments.

These are exemplified by *Kartar Singh v. State of Punjab* which upheld the Terrorist and Disruptive Activities Act,[1] and *People's Union for Civil Liberties v. Union of India* which upheld the Prevention of Terrorism Act.[2]

These judgments recognize that the country faces a threat of an altogether different nature and magnitude, and, accordingly, they

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[1] *Kartar Singh v. State of Punjab*, (1994) 3 S.C.C. 569.

[2] *People's Union for Civil Liberties v. Union of India*, (2004) 9 S.C.C. 580.

validate several measures and instruments that the security forces need, measures and instruments that political parties and, of course, the committed activists have been, and continue to denounce.

What the country is faced with is not a law and order problem, the judgments tell us, it is not a mere disturbance in "public order". The terrorists and their sponsors have unleashed a campaign to inject "a sense of insecurity in the minds of the people, with the intention of destabilizing the sovereignty or overthrowing the Government as established by law." "The way in which the alleged violent crimes is shown to have been perpetrated, the manner in which they have been cruelly executed," the Supreme Court tells us in *Kartar Singh,* "the vulnerable territorial frontiers which form part of the scene of unprecedented unprovoked occurrences, lead to the inescapable illation and conclusion that the activities of the terrorists and disruptionists pose a serious challenge to the very existence of sovereignty as well as the security of India notwithstanding the fact whether such threats or challenges come by way of external aggression or internal disturbance."[1] What the country is confronted by is "a grave emergent situation created either by external forces particularly at the frontiers of this country or by anti-nationals throwing a challenge to the very existence and sovereignty of the country in its democratic polity."[2] The country is faced with "sponsored terrorism," the Court correctly emphasized, as well as other forms. "Conceptually public order and terrorism are different not only in ideology and philosophy but also in cause of ***mens rea,*** the manner of its commission and the effects or result of such activity." Public order is associated with law and order. On the other hand, "Terrorism is a new crime far [more] serious in nature, more grave in impact and highly dangerous in consequence." One pertains to law and order. The other "may be political with unjustifiable use of force threatening security and integrity of the State."[3] The scale of violence is such, the manner of its perpetration so cruel that the public and even the victims are reluctant to come forward and testify to the facts for fear of their lives.[4]

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[1] *Kartar Singh, op. cit.,* para 67.
[2] *Ibid,* para 68; para 77 similar.
[3] *Ibid,* paras 446-47.
[4] *Ibid,* paras 223, 253.

Dealing with specific provisions and the submissions that had been made against them, the Court almost literally echoed what Sardar Patel had said. It observed,

> No doubt, liberty of a citizen must be zealously safeguarded by the courts; nonetheless, the courts while dispensing justice in cases like the one under the TADA Act, should keep in mind not only the liberty of the accused but also the interest of the victims and their near and dear and above all the collective interest of the community and the safety of the nation so that the public may not lose faith in the system of judicial administration and indulge in private retribution.[1]

There are several elements of this important judgment that deserve scrutiny as they bear on the country's ability to bring terrorists and their motivators, directors, aiders and abettors to book:

- The section defining "abets" is "impermissibly vague", the Court held; hence, in reading "communication" and "association", one must read in "actual knowledge or reason to believe," so that when a person is accused of communicating or associating with terrorists, the prosecution must establish that he had actual knowledge or reason to believe that they were engaged in terrorism or disruption; that, while the Act does not require *mens rea,* unless there are sufficient grounds to believe that Parliament meant to specifically exclude it, one must go by the general rule that *mens rea* is an essential element for bringing any person under the definition of "abets".[2]
- Every accused has a fundamental right against self-incrimination.[3]

Each of these elements has far-reaching consequences for what can be achieved for securing the country against the kind of enemy that it faces today. But examining all these elements will take us far afield. Instead, I will focus on one element of fairness which the Court emphasized; on the guidelines it specified while approving another element; and on some ringing observations that we encounter in this judgment as we do in several judicial pronouncements.

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[1] *Ibid,* para 351.
[2] *Ibid,* paras 115, 120-22, 128-34, 368(2), 372, 449.
[3] *Ibid,* paras 205-07, 214-15, 376.

The Act had provided special procedures to ensure a speedy trial. These were challenged on several counts. The Court upheld the special procedures. And rightly so: if a person is innocent, he certainly should be acquitted with the greatest possible dispatch—in his interest as much as in the interest of society; if he is guilty, he should be convicted with the greatest possible dispatch—in the interest of the country as well as that of every law-abiding individual living in it. The point is different: it is to actually ensure that the trials are swift. Such expeditious procedures have been approved by the Supreme Court time and again. Yet, the trial of those charged with having caused the deaths of 257 persons in Bombay *more than fifteen years ago* has still to come to a conclusion.

Another set of guidelines

The provision in TADA which was much more severely attacked was section 15. It made confessions made before a police officer not below the rank of a Superintendent of Police admissible as evidence. By a majority, with two Judges dissenting, the Court approved the section. I shall revert to the observations that the dissenting Judges made in a moment, but first we must consider the effect of what the majority, while approving the section, prescribed as guidelines.

The Court held that, so as to ensure that the confession "is not tainted with any vice but is in strict conformity with the well-recognized and accepted aesthetic principles and fundamental principles," the following guidelines must be observed while recording the confession:

(1) The confession should be recorded in a free atmosphere in the same language in which the person is examined and as narrated by him.

(2) The person from whom a confession has been recorded under Section 15(1) of the Act, should be produced before the Chief Metropolitan Magistrate or the Chief Judicial Magistrate to whom the confession is required to be sent under Rule 15(5) along with the original statement of confession, written or recorded on a mechanical device without unreasonable delay.

(3) The Chief Metropolitan Magistrate or the Chief Judicial Magistrate should scrupulously record the statement, if any,

made by the accused so produced and get his signature and in case of any complaint of torture, the person should be directed to be produced for medical examination before a Medical Officer not lower in rank than an Assistant Civil Surgeon.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no police officer below the rank of an Assistant Commissioner of Police in the Metropolitan cities and elsewhere of a Deputy Superintendent of Police or a police officer of equivalent rank, should investigate any offence punishable under this Act of 1987.
This is necessary in view of the drastic provisions of this Act, more so when the Prevention of Corruption Act, 1988 under Section 17 and the Immoral Traffic Prevention Act, 1956 under Section 13, authorize only a police officer of a specified rank to investigate the offences under those specified Acts.

(5) The police officer if he is seeking the custody of any person for pre-indictment or pre-trial interrogation from the judicial custody, must file an affidavit sworn by him explaining the reason not only for such custody but also for the delay, if any, in seeking the police custody.

(6) In case, the person, taken for interrogation, on receipt of the statutory warning that he is not bound to make a confession and that if he does so, the said statement may be used against him as evidence, asserts his right to silence, the police officer must respect his right of assertion without making any compulsion to give a statement of disclosure.[1]

The Court asked the Government to take note of these guidelines and incorporate them by amending the Act and Rules. It added,

> Though it is entirely for the court trying the offence to decide the question of admissibility or reliability of a confession in its judicial wisdom strictly adhering to the law, *it must, while so deciding the question satisfy itself that there was no trap, no trick and no importune seeking of evidence during the custodial interrogation and all the conditions required are fulfilled.*[2]

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[1] *Ibid*, paras 263, 368(9).
[2] *Ibid*, para 264.

The reader can himself assess what will be secured under these guidelines—when, say, the person that the police officer will be handling would be one who has internalized the ideology of *jihad* and *shahadat*. To say nothing of abiding not just by the "well-recognized and accepted fundamental principles," but also the accompanying "aesthetic principles"; to say nothing of ensuring that "there is no trap, no trick and no importune seeking of evidence," reflect on the consequence that is bound to follow from just the sixth guideline, namely,

> In case, the person, taken for interrogation, on receipt of the statutory warning that he is not bound to make a confession and that if he does so, the said statement may be used against him as evidence, asserts his right to silence, the police officer must respect his right of assertion without making any compulsion to give a statement of disclosure.

Nor is the consequence confined to the specific disabilities that such guidelines impose on State personnel. By the general premise that underlies them, in effect, all the solicitousness goes to the suspect, all the suspicion to security personnel. This premise is what has consequences that are even more debilitating than those that flow from any individual guideline.

Instructive perorations

The premise, rather, if I may so put it, the presupposition will become evident from what the two Judges—Justice K. Ramaswamy and Justice R.M. Sahai—who dissented, observed while dealing with the admissibility of confessions recorded by police officers.

Justice Ramaswamy doubted if giving the power to a police officer to record the confession is "civilized procedure". He pronounced it to be "obnoxious". He advanced two reasons for this conclusion, and provided one touchstone. The police officer, the Judge reasoned, "is expected to be keen on cracking down the crime and would take all tough steps to put down the crime to create terror in the heart of the criminals." Hence, he will, *a fortiori,* use brutal, uncivilized methods to extract whatever confession would serve to show that the crime has been "solved".

Second, the Judge reasoned, "If the exercise of the power is allowed to be done once, [officers of the police] may be conferred with judicial powers in a lesser crisis and be normalized in grave

crisis, such an erosion is anathema to rule of law, spirit of judicial review and a clear negation of Article 50 of the Constitution and the constitutional creases [*sic*]." As for the first point, the presupposition shows through by a mile. As for the second, one can only sigh,

Kisi aane waale toofan ka rona ro kar
Nakhuda ne mujhe sahil pe dubona chcha ha

The touchstone that the Judge specified for testing a procedure is telling. That the Act had provided that an officer only above a certain rank would record the confession was not what mattered, the Judge observed. The procedures must be scrupulously adhered to and there must not be any taint to the confession *"for removal of suspicion from the mind of the suspect and the objective assessor."*[1] I cannot vouch for "objective assessors," but I am confident that almost nothing that the persons recording the confession can do will allay the "suspicion" in the mind of a trained, indoctrinated terrorist!

Justice Sahai delivered an even harsher assessment of the police, and thereby rejected outright the provision allowing an officer of the police to record the confession. "No civilized country has accepted confession made by an accused before a police officer as voluntary and above suspicion, therefore, admissible in evidence. One of the established rules or norms accepted everywhere is that custodial confession is presumed to be tainted," Justice Sahai said.

Justice Sahai gave several reasons for rejecting section 15. There would be the "uncertainty" that the accused had been forced to be a witness against himself and admit to "something which he would not have otherwise stated." Second, a confession made to a police officer irrespective of the nature of the crime in a non-notified area is inadmissible, "But the same police officer is beyond reproach when it comes to notified area." True, but is that, to use the criterion that the Supreme Court has used in innumerable judgments, an "unreasonable classification"? After all, the area would have been notified because of the circumstances which have come to grip it. Third, generally the graver the offence, the stricter the requirements of procedure—what is admissible for a person accused of possessing arms is inadmissible in regard to murder. And offences under TADA Act are much more serious than crimes in regard to which such

[1] *Ibid*, para 406.

confessions are inadmissible. True, Justice Sahai allowed, such powers may have been given to police in United Kingdom or United States but the culture of our police is not what the culture is in those countries, and, till the culture of our police is improved, corresponding powers cannot be given to the police here. "The defect lies not in the personnel but in the culture"—and so, providing that the confession shall be recorded by officers above a certain rank, does not take care of the problem. "In a country where few are under law and there is no accountability, the cultural climate was not conducive for such a drastic change . . . Our social environment was not mature for such a drastic change as has been effected by section 15 . . ."[1]

The culture of a civilized society. The culture of our society. The culture of our police. But what about the culture of the terrorist, of his controllers, of those who provide him safe-houses, of those who ensure the logistics, who map the targets? Are they of a culture that tells them to acknowledge the truth over a cup of tea?

Pause for a moment to consider the implications of what Justice Sahai himself conceded. As we just saw, the Judge acknowledged that the power that he is denying to the Indian police is indeed available to the police in the United States and the United Kingdom. It most certainly is to the police in France. And this has been the situation from the period preceding 9/11 and the rest. One of our foremost experts on terrorism, Ajai Sahni, tells me that "Western enforcement officials are often astonished by the fact that the Indian justice system dismisses such powers with such contempt."

Next, contrast the presupposition that the Judge has against the police with the understanding he shows for a person who is found in possession of arms and ammunition. Section 5 of the TADA Act had provided for prosecution of a person who was found to be in possession of specified arms and ammunition—as in provisions of all such legislation, the arms and ammunition that were contemplated were heavy weapons, say AK-47 rifles of the kind that were famously found to be in the possession of Sanjay Dutt. Justice Sahai found this impermissible: mere possession was being made an offence, he reasoned, while in other instances, some definite act had to be done for an offence to be said to have been committed. There

[1] *Ibid*, paras 453–55. 456.

must be "some interrelation" between possessing the weapons and the terrorist act that has been committed. "Though no one has justification to have such arms and ammunitions as are mentioned in section 5," the Judge held, "but unjustifiable possession does not make a person a terrorist or disruptionist." The section should have provided that it "may be invoked only if there is some material to show that the person who was possessed of the arms intended it [*sic*] to be used for terrorist or disruptionist activity or it [*sic*] was an arm and ammunition which in fact was used."[1]

Extreme suspicion, nay hostility in one case; an understanding, nay benevolent gaze in the other.

Politics snatches it away

In any event, the constitutionality of the Act itself had been upheld, and the central fact that the assault with which the country is faced is of an altogether different nature was recognized by the highest court. The terrorists had seen to that.

But then politics took over. Cries of "liberty" went up, in particular that the Act was being used to target Muslims. I remember well the sequence that ensued as I was in touch with officials in the Home Ministry directly in the know of what was happening, both in the states that were plagued by organized violence and by how instruments like TADA were being deployed.[2]

[1] *Ibid,* paras 451, 460. Of course, the majority Judges were equally eloquent in describing police brutality. Expressing their anguish they wrote, "The oppressive behaviour and the most degrading and despicable practice adopted by some of the police officers is much depressing, though no general and sweeping condemnation can be made. Courts have frequently dealt with cases of atrocity and brutality practiced by some overzealous police officers resorting to inhuman, barbaric, archaic and drastic method of treating the suspects in their anxiety to collect evidence by hook or by crook and wrenching a decision in their favour. We remorsefully like to state that on a few occasions even custodial deaths caused during interrogation are brought to our notice. The Supreme Court on several occasions has awarded exemplary compensation to the victims at the hands of the police officials which can be testified by a series of pronouncements of the Supreme Court." (*Ibid,* paras 247, 251.) "The oppressive behaviour and the most degrading and despicable practice. . . cases of atrocity and brutality. . . inhuman, barbaric, archaic and drastic method of treating the suspects. . ."—how often do we come across such vivid adjectives in regard to what the terrorists and their controllers have been doing?

[2] I have described what I learnt at the time in *Courts and their Judgments, op. cit.,* pp. 240-43, from which the summary in the text is taken.

Mr Narasimha Rao was the Prime Minister. He was being buffeted on various counts, and was, therefore, less and less able to stand firm. The opportunity was used to push him into a corner on the TADA Act. "Draconian," the cry went, "Being used to get at minorities," it went. "Whoever the Chief Minister and police don't like is being taken in under this Act, and, once he is in, he just can't get bail." The campaign was taken to fever pitch in late 1994 and early 1995.

A conference of Chief Ministers was scheduled for the first week of May 1995. That just a few months earlier the Supreme Court had upheld the TADA Act as being constitutional made no difference. The campaigners coordinated their moves to corner Narasimha Rao on TADA. The two officials with whom I was in touch were asked to prepare a note for the conference, in particular to tabulate data about those who had been detained under it, etc.

The Home Ministry was able to get data from ten states. These showed that the Act had indeed been misused in one instance. The instance was Gujarat: in 1990–91, the then, and justly notorious, Chief Minister Chimanbhai Patel, then in the Congress, had used the Act to throw 19,000 farmers in jail to suppress an agitation by the Bharatiya Kisan Union, the RSS affiliated farmers' organization. Significantly, no voices had been raised against that blatant misuse at the time. Over the years, the Act had come to be used less and less. In the ten states for which data was available, in 1994 *only 535 persons had been booked under TADA. As many as 517 of these*—that is, *over 96 per cent—were from three states:* Assam, which was in the grip of ULFA violence, Andhra, which was contending with Naxalites, and Maharashtra, which was mopping up those responsible for the Bombay blasts and members of organized gangs like those of Dawood Ibrahim. And each of the states was under a Congress Government. In the first two months of 1995, the only months in the year for which data had come from the ten states, *only 30 persons had been booked under TADA.*

As for Muslims, since the Act had been passed, in Kashmir, almost all who had been arrested were Muslims—not because they were Muslims but because those who had taken up the gun to break India happened to be Muslims. Excluding Kashmir, of those held under TADA since its inception, 15 per cent had been Muslims. Once Gujarat was excluded—where even the Congress Government at the

Centre admitted that the local Congress Government had misused the Act—Muslims constituted only *four point six per cent of the total*. And yet the shriek, "TADA is being used to target Muslims."

Nor was it the case that, once a person had been ensnared under TADA, he just could not get bail. Of the ones who had been jailed under TADA in Gujarat *ninety eight point three per cent* had been granted bail; of those who had been arrested under it all over the country, *seventy six point five per cent* had been granted bail.

What happened between 1991 when the Act was so grossly misused and no voice was raised, the then Chief Minister of Rajasthan, Bhairon Singh Shekhawat, asked at the Conference, and now when the Act is hardly being used and yet there is such hue and cry against it? The Bombay blasts of 1993, he reminded the Prime Minister and Chief Ministers, blasts that killed over 250 persons, blasts that were said to have been carried out by Dawood and his associates. Is it then the case, Shekhawat asked, that in the last two years TADA has at last come to touch the networks of those who wield real influence in our country today, those who manipulate their puppets from Dubai and elsewhere? No one answered.

"Your figures are right," Narasimha Rao told the Home Ministry officials after the Conference, and they told me immediately after their meeting with the Prime Minister. "But, right or wrong, the impression has got around that it is being used against the Muslims. I am afraid, you will have to fight your war without it."

The sequence is repeated

The terrorists flourished. The NDA Government took office. That a law to deal with terrorism was absolutely necessary was evident to all. But the Congress, the Communists, and, of course, others who banked even more on Muslim votes, insisted that they wouldn't let the law pass. While it had the requisite numbers in the Lok Sabha, the NDA did not have them in the Rajya Sabha. Eventually, a joint session of the two Houses had to be convened in 2002 to pass the law, the Prevention of Terrorism Act.

This too was challenged in the Supreme Court. All the familiar grounds were invoked. As the subject matter is "law and order", at the most "public order" and, as these fall in the state's List, Parliament has no competence to enact such a law, it was argued. The law

allows a police officer to record the confession. The law provides for an unduly long period of detention . . . The Supreme Court upheld the constitutionality of the Prevention of Terrorism Act, POTA, through the judgment it delivered in December 2003, in *People's Union for Civil Liberties v. Union of India.*[1]

As it had done in *Kartar Singh,* the Court emphasized that the threat that the country faced from terrorism and its organizers is of an altogether different nature and magnitude than the usual occurrences that disturb law and order and public order. It noted,

> Though violent behaviour is not new, the present day "terrorism" in its full incarnation has obtained a different character and poses extraordinary challenges to the civilized world. In all acts of terrorism, it is mainly the psychological element that distinguishes it from other political offences, which are invariably accompanied with violence and disorder. Fear is induced not merely by making civilians the direct targets of violence but also by exposing them to a sense of insecurity. India has been the victim of an undeclared war by the epicenters of terrorism with the aid of well-knit and resourceful terrorist organizations engaged in terrorist activities in different States. Terrorist strikes have certain common features and can be classified under three groups (i) attack on the institution of democracy and economic nerve centres, (ii) attack on symbols of national pride and on security/strategic installations, and (iii) attack on civilians to generate terror and fear psychosis and attack on worshipping places to injure sentiments and to whip up communal passions and thus attempting to pose the people against the Government by creating a feeling of insecurity . . .

The depredations of terrorists and their sponsors and controllers cannot be equated with law and order or public order, the Court declared:

> Terrorist acts are meant to destabilize the nation by challenging its sovereignty and integrity, to raze constitutional principles, to create a psyche of fear and anarchism among common people, to tear apart the secular fabric, to overthrow democratically elected government, to promote prejudice and bigotry, to demoralize the security forces, to thwart economic progress and development and so on. This cannot be equated with a usual law and order problem within a state. On the other hand, it is inter-state, international or cross-border in character. Fight against the overt and covert acts of terrorism is not a regular criminal justice endeavour. Rather, it is defence of the nation and

[1] ***People's Union for Civil Liberties v. Union of India,*** (2004) 9 S.C.C. 580.

> its citizens. Terrorism is definitely a criminal act, but it is much more than mere criminality. To face terrorism the country needs new approaches, techniques, weapons, expertise and of course new laws . . .[1]

Nor is it the province of courts to assess whether the menace can be met by some other device. Once it is established that Parliament has the authority under the Constitution to pass the law in question, the Court shall confine itself to assessing whether any particular provisions in it offend any provisions of the Constitution. "Moreover," the Court reiterated, "it has been repeatedly held that mere possibility of abuse cannot be counted as a ground for denying the vesting of powers or for declaring a statute unconstitutional."[2]

That a police officer can record a confession in a case of terrorism has already been upheld in *Kartar Singh,* the Court recalled:

> If the recording of confession by the police is found to be necessary by Parliament and if it is in tune with the scheme of law, then an additional safeguard under Sections 32(4) and (5) is *a fortiori* legal. Moreover, an officer who is below the rank of a Superintendent of Police cannot record the confessional statement. It is a settled position that a confession forcibly extracted is a nullity in law. Non-inclusion of this obvious and settled principle does not make the section invalid. Ultimately, it is for the court concerned to decide the admissibility of the confessional statement. Therefore, the validity of Section 32 [which provided that police officers not below the rank of Superintendents of Police could record confessions] is upheld.[3]

Nor is the provision permitting the authorities to detain a suspect for a longer period impermissible, the Court observed, and, once again, it pointed to the special nature of the challenge that the country was facing:

> Section 49 of the Act is similar to Section 20 of TADA, constitutional validity of which has been upheld in *Kartar Singh* case, (1994) 3 SCC 569. Usually the overt and covert acts of terrorism are executed in a chillingly efficient manner as a result of high conspiracy, which is invariably linked with anti-national elements both inside and outside the country. So an expanded period of detention is required to complete the investigation. Such a comparatively long period for solving the case is quite justifiable.[4]

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[1] *Ibid,* paras 4-9.
[2] *Ibid,* para 22.
[3] *Ibid,* paras 52, 53.
[4] *Ibid,* para 64.

And so on. Yet, as is well known, almost all opposition-ruled states refused to implement POTA. And these included the 14 states that were under Congress governments as well as the two that were under the CPI(M). Several of these states were afflicted by terrorism and secessionist insurgencies—Jammu and Kashmir, Assam, Bihar, West Bengal, Manipur and Tripura. The utter opportunism and farcical opposition of these governments was shown up by the fact that, even as they were opposing POTA, several of these very states were envisaging legislation against "organized crime" that had the same sorts of provisions!

In a word, the country was even more in the vice of vote-bank politics than it had been in the mid-1990s. The NDA Government fell. The UPA Government repealed POTA with much fanfare.

Once again, the argument has been settled by the terrorists. They traumatized the country by their attacks on 26-29 November 2008. The very party which had denounced TADA and POTA brought forward changes to the Unlawful Activities legislation. It tabled several of the very provisions that it had assailed earlier.

The new legislation is far from being adequate. For instance, in spite of the fact that, both in *Kartar Singh* and *People's Union for Civil Liberties,* the Supreme Court had upheld the provisions permitting confessions to be recorded by police officers, the UPA Government has not been able to incorporate the necessary provision. In a word, the terrorists have succeeded in settling the debate—alas! only partially!

An American strategic thinker, George Friedman, the founder of STRATFOR, makes the vital distinction that we need to bear in mind. Are the terrorists committing a mere crime? Or are they waging a war? If what they are perpetrating is just a crime, then the laws of evidence, the elaborate procedures laid out in the Criminal Procedure Code have to be adhered to. "Consider this analogy from December 7, 1941," Friedman writes. "Assume that after December 7, F.D.R. had announced that the United States would hunt down and bring to justice every Japanese pilot who had attacked the United States, placing criminal responsibility on them, rather than acting as if a state of war existed between the United States and Japan. It would follow from this that the United States, apart from having to capture the pilots, would also have to carry out a judicial proceeding to

determine whether and to what degree each individual pilot was responsible."

"That would obviously be madness," Friedman continues. "The pilots were not guilty of a crime." They were soldiers and sailors, carrying out orders from their superiors who had launched a war against the United States.

The legal framework under which they had to be dealt with was the Geneva Convention. But in the case of the terrorists, even the Geneva Convention does not apply, Freedman points out. He writes, "The Geneva Convention of 1949 states in Article 2 that fighters will be considered combatants so long as the following conditions apply:

> (a) that of being commanded by a person responsible for his subordinates;
> (b) that of having a fixed distinctive sign recognizable at a distance;
> (c) that of carrying arms openly;
> (d) that of conducting their operations in accordance with the laws and customs of war."

The terrorists do not measure up to any of these conditions. What the terrorists and those who motivate and help them are engaged in is not crime. It isn't even the usual sort of war. It is war that respects no rules and conventions. They must be dealt with accordingly.

Moreover, human rights activists who insist that at least the Geneva Convention must apply, forget that, should it apply, as Friedman points out, the State can hold the captured terrorists in detention almost indefinitely, that is till the war is over![1]

Lessons

- ❒ Individual liberty and national security have to be balanced.
- ❒ Which of the two will have to be given primacy at a particular time depends on the situation in which the country is placed at that juncture. The Constitution has, therefore, balanced each right and liberty with the grounds on which it may be subjected to reasonable restrictions.
- ❒ In addition, it has provided flexibility. Thus, as we have seen, it has left several matters to be determined by the legislatures. This has been done in the belief that legislatures will be better able and quicker to modulate the balance depending on the

[1]George Friedman, *America's Secret War,* Little Brown, 2004, pp. 120-23.

circumstances in which the country finds itself. But, given the condition in which our legislatures are today, and, even more so, given the woeful condition to which the politics that determines what kind of legislatures will come into being has fallen, the responsibility rests heavily on the Judges to maintain that balance.

- Hence, it is all the more imperative that they discharge this responsibility with an acute sense of what the country requires. In 1975-77, the country faced no danger; hence, the Supreme Court gravely erred when it snuffed out individual liberty in the name of preserving some higher interest. Today, the country is being subjected to a war—engineered, instigated, equipped, directed, financed by powers and groups that are out to dismember India: the Supreme Court has, therefore, been absolutely right in approving legislation that is necessary for enabling the security forces and the investigating agencies to prosecute that war, even though that legislation may result in curtailing some liberties of some individuals.
- The courts are, of course, absolutely right in affirming that it is their duty to see that power is not misused. That is so both because of the innocent individual whose liberty may be trampled as a result, and also, I would say even more so, because abuse of power—from the way Mrs. Gandhi misused the Emergency provisions to the policeman who badgers a man in his custody to death—makes the use of that power when it may legitimately be deployed that much more difficult.
- At the same time, the courts must bear in mind the circumstances that prevailed in the area when the security forces were sent to retrieve it for the country. Was the local judiciary functioning? Were witnesses in a position to testify?
- The same goes for investigations and interrogations. They must bear in mind the nature of the adversary who is threatening the country. Is he the kind who will yield information, or acknowledge what he has done across a dining table, over tea? Or is he one who has been hardened in the schools of *jihad, shahadat,* "revolution"?
- We must distinguish between the liberty of (1) the one who is out to break India or to overturn our constitutional system by

violence, and those who help him; (2) the liberty of a member of the security forces who, as Sardar Patel pointed out in the interventions with which we began, for no fault of his, has to face the bullets of the first lot; and (3) the liberty of the ordinary citizen. In the case of the third group, we must bear in mind that

- His liberty is most definitely snuffed out by the first lot.
- When the country is being assaulted or an attempt is being made to overturn its constitutional order by violence, the ordinary citizen must accept the restrictions on his liberty that are necessary for securing the country and its constitutional order. At such times, all facilities that the security forces require for defeating those who are out to break our country or wreck its constitutional order must be accorded to them. In fact, when the country is faced with mortal danger, the ordinary citizen has a right to life and liberty no greater than the extent to which members of security forces, that is those who are putting their lives on the line to save him and the country, have.

- Having made these distinctions, we should respect the liberty and rights of the first lot, that is those who take a gun in their hand and those who aid them only to the extent to which they respect the liberty and rights of their victims.
- Accordingly, through legislation, including amendments to the Constitution, and judgments of courts, we must explicitly provide, and ensure that everyone understands that the freedoms and rights and protections available under Articles such as 19(1), 21, 22 and 32 shall not be available to anyone who takes up the gun to dismember India or to overturn our constitutional order, and most certainly not to any foreigner who is here illegally.
- Nor shall they be available to anyone who instigates them, or helps them in any way even to the slightest extent.
- Every time an insurrection erupts, ever so often when terrorists are engaged in an encounter, all sorts of "human rights" organizations unleash propaganda that in effect serves the cause of the terrorists and insurrectionists and those behind them. The so-called reports of these organizations must be subjected to the minutest scrutiny, their fabrications nailed, and the

antecedents of the organizations must be exhumed and made known to the public. Failure to do so—failure that we witnessed in Punjab in the 1980s, failure that we see to this day in Kashmir and the Northeast—undermines national security and eventually tells upon the liberty of the law-abiding citizens.

- We must equally expose political parties that jeopardize vital legislation for the sake of votes of one section or another.
- There are lessons for the courts too. They must, as Justice Chandrachud said reflecting in retrospect upon *ADM Jabalpur*, have courage when it is needed: they must stand up for liberty when it is assaulted for collateral purposes by rulers. And stand firmly by all the steps that are required for the country's security when it is in jeopardy.
- Nor can the balance be maintained unless the lawyers too rise above legalisms, unless they rise above the self-serving notion, "We have to defend whoever comes to us for help." The fact is that they don't. But I am on a different point: they *shouldn't*. They must, as Gandhiji counseled, be judges of the first resort. How can the country's security be ensured, how can liberty of the average citizen be saved, how can those who sacrifice their lives for the country be saved if the very best lawyers are going to think it their duty to defend every terrorist and "revolutionary", and the security personnel are to be at the mercy of such lawyers as governments can muster?
- Even greater responsibility rests with those who are in public life and discourse. As we have seen, by and large, the courts have taken cognizance of the threat that the country faces. Even as they safeguarded liberties, they have put their seal on laws that were required to fight the menace. That is far more than can be said of politicians and many in the media. The fabricated miasmas they have used to undo legislation show how they will cast away the requisites of national security for votes in the one case, and to be intellectually fashionable in the other. Neither the security forces nor the courts can save the country when those in control of legislatures and public discourse act in this way.

Unless we effect changes of this kind, we will have to wait upon terrorists to settle our debates!

3.

India's Tibet Policy

Everyone seems to agree on five facts:

- ❒ Tibet's cause is just;
- ❒ Tibetans have given no cause for offence;
- ❒ China has already reduced Tibetans to a minority, even in Lhasa. It is systematically obliterating the Tibetan culture and the identity of the Tibetan people;
- ❒ It has not succeeded as yet, but nor has it loosened its vice;
- ❒ People across the world feel intensely about this injustice and oppression, but governments are silent.

India's policy towards Tibet has to be assessed on the touchstone: how does it address the danger that these facts pose for India?
The policy has moved from:

- ❒ Viewing the Government of Tibet as the Government of an independent country; to
- ❒ Viewing Tibet as an autonomous country or region under the overall "suzerainty" of China; to
- ❒ Viewing Tibet as an autonomous region under the "sovereignty" of China; to
- ❒ Viewing Tibet as a region that is an integral part of China and one in which China can do as it pleases—what happens to Tibet and Tibetans being an internal affair of China;
- ❒ To not merely viewing Tibet as such, but to accepting what the Chinese say is "Tibet": as is well known, China has hacked off half the area of Tibet that encompasses half the population of Tibetans and submerged it in Han provinces.

Talk at the *"Thank you, India"* events organized by the Bureau of His Holiness The Dalai Lama, marking 50 years of exile in India, March 2009.

[1]I have traced the evolution of our policy *vis a vis* China and Tibet in *Are We Deceiving Ourselves Again?, Lessons the Chinese taught Panditji but we refuse to learn*, ASA, New Delhi, 2008.

From the time of Pandit Nehru, India's policy has been to shut its eyes to what is happening in Tibet, to what the Chinese are doing in Tibet. In particular, to what they are doing to the culture and people of Tibet; and to the military buildup. This was evident in the way in which, under Pandit Nehru's firm hand, the Indian Government shut its eyes to the roads and other infrastructure which were being built in Tibet.

Indeed, the "policy" was carried further. The view was taken, and enforced, that we should not only not ourselves raise, we should oppose efforts by others to raise in a forum like the United Nations what was being done to Tibetans. This, Panditji laid down, is what would be in the best interests of the Tibetans themselves!

Along with this shutting of eyes to Chinese build-up has gone a shutting of eyes to the fact that India's security is inextricably intertwined with the existence and survival of Tibet as a buffer state and to the survival and strengthening of Tibetan culture and religion. One reason for this, of course, is that it is the representative of the Government of Tibet who signed the Simla Agreement and not the representative of the Government of China—though, it must be remembered, that the objection of the Chinese representative was not to the border between Tibet and India but to the border between Tibet and China. The second reason is that unless there is an area of peace between China and India, an area in which there is no great Chinese military presence, our northern borders are directly exposed. The ecology of India is just as closely interlinked with what happens across the Tibetan plateau. The deforestation of eastern Tibet that has already taken place; mining and other activities that China is pursuing with vigour across Tibet; the diversion of Tibetan waters to the north by China, engineering works for which have already begun—all these are bound to affect the entire plain of north and east India, as, indeed, they are bound to affect the countries all along the Mekong.

And this shutting of eyes, is typical: we shut our eyes to the Talibanization of Pakistan; to the Talibanization of Bangladesh; to the ingress of Bangladeshis into the Northeast; to the consequences for us of China encircling India—Myanmar as a colony; a military pact with Bangladesh; a fully militarized and nuclearized Tibet; a willing and dependent instrument in Pakistan.

In the case of China and Tibet, as the years have gone by, we have shut our eyes tighter and tighter. In the last few years, in particular up to 2007, the Chinese attitude towards Tibet has hardened; the build-up of infrastructure in Tibet, an infrastructure that can be used for military purposes as much as for anything else, has become more intense; and the incursions and other hostile acts towards India have become much more frequent, and much broader in range: to take just two examples, recall how China has striven to prevent closer relations between ASEAN and India; how it has striven to snuff out any chance that there might have been of India, along with countries like Japan joining the Security Council.

It was only when, during the run-up to the Olympic Games, China felt it necessary to show a benign face to the world, that these hostile acts were tempered. But, the Olympics over, China has resumed its oppression in Tibet just as it has resumed its hard stance towards India in general and on the border issue in particular.

In India, on the other hand, we continue to shut our eyes to both what the Chinese are doing in Tibet and to what they are doing towards India.

The net result is that the Chinese, having already swallowed Tibet, are now making systematic inroads onto the southern slopes of the Himalayas. The pace at which and the extent to which they are extending their presence and influence in Nepal since the Maoist Government took over are to be seen to be believed, and yet to this also India continues to shut its eyes. Nor should any of it surprise us. After all, a China that is spreading its influence in Latin America, Central Asia, Africa is not going to overlook these countries along its southern rim. Had not Mao declared, "Tibet is the palm of China, the Himalayan kingdoms are its fingers"?

The danger will not go away just because we refuse to see it.

A clue to the coming years lies in the contrasting attitudes of governments and legislatures in the West. This very month, both the European Parliament and the US House of Representatives have passed resolutions endorsing the cause of Tibet and its people. In this very month, governments of those very countries have bent backwards to assure China that they will not inconvenience it. For two reasons, at least, I fear things are going to get much worse in the coming months. On the one hand, China is now in a position where

no Government is prepared to talk the truth about or to China: look at the turnaround in the policy of Australia; similarly, with the United States now dependent on China for financing its bailout packages, the US will not take a stand on any issue that may offend China; look at the way China has silenced the new Administration by reminding it of the extent to which China holds US Government paper, and what it can do to the dollar's value and, even more so, to its status as an international reserve currency.

The second factor concerns us in India. It is an apprehension, thus far mercifully just a possibility, but a possibility nonetheless. Namely, that in the coming years, we may have in India even weaker governments than we have had in the last few years, that leadership in India may pass into hands which will be even more preoccupied with its own petty calculations and even less concerned with what is happening in Tibet as in other areas around India. The rationalization that became so convenient an alibi when China invaded Tibet will come in handy again: "When the country most affected by developments in Tibet, namely India, is silent, why should we get worked up about the developments?"

Nor is there any shortage of persons who will rationalize succumbing to whatever China dictates. Just the other day, at the India International Center, during a discussion of my book on India's Tibet and China policy, a commentator said, "I am a South Indian, for heaven's sake. I have not grown up with this feeling of Delhi being the centre of things. How does what happens to Tibetans concern us? If the Tibetans want to strive for their independence, good luck to them; let them do so on their own. Why should we allow ourselves to be dragged into their problem?"

The same thing goes for the border between Tibet and India. There is a unilateral objectivity, espousing which is taken as the hallmark of "independent thinking" in India. Books have been put out showing how in regard to Aksai Chin, for instance, the Indian borders were successively advanced northwards and eastwards by British surveyors in the late nineteenth and early twentieth centuries. That the Chinese have similarly enlarged the entire concept of "China" is not mentioned at all: is it not a fact that the original China was only one-third of what China is today? I hear similar "objectivity" in regard to the eastern border, in particular in regard to Tawang. This

cannot but dissipate national resolve; it cannot but further expose Tibetans to Chinese oppression; and it cannot but ultimately endanger India.

We must bear in mind that China has a clear view of what it wants to be—the dominant power in Asia and one of the two major powers in the world. It regards India as a potential nuisance, a nuisance that must be confined within South Asia. All its policies, including its policy of conquering and suppressing Tibet, its policy of militarizing Tibet and stationing air and nuclear bases in Tibet, are part of this larger policy.

We must also be clear that China is just not going to make any conciliatory move in regard to Tibet. In fact, one sure road for Chinese leadership to ascend has been through Tibet: the present President of China won his spurs by the systematic oppression of Tibet which he directed and over which he presided. China only goes through the pretence of talking to the Dalai Lama's delegations from time to time, as it did, for instance, in the run-up to the Olympic Games. It is only waiting for the Dalai Lama to pass away, knowing that, with this centre of gravity gone, the Tibetans will be reduced to an even more helpless situation.

It is for this reason that we can expect that, in the coming months, China will put the kind of pressure on India which it has put recently on South Africa, pressure to either silence the Dalai Lama completely, to circumscribe his activities, or to evict him from India. And, I'm afraid, there will be no shortage of rationalizers who will say, "Why should we let one man, howsoever eminent and pious, come in the way of improving relations between China and India, as improving those relations is required for India's own security?"

There is another feature about India's stance towards Tibet, a feature that reveals a lot about us as a people, a feature that goes beyond the attitude of successive Indian governments. As is well known, the Buddhist tradition was forgotten in India; in fact, the Buddha himself seems to have been forgotten and the Buddhist sites erased from our collective memory till a few Britishers took it upon themselves to hunt them down and excavate them. Among the places in the world, where this great heritage of mankind, and the Buddha's doctrine and practice, were preserved has been Tibet. The great Tibetan masters have been with us and amidst us now for

50 years. It is indeed true that Panditji helped set up institutions in which higher Tibetan learning and Tibetan arts and culture could be preserved and nourished. And there is no doubt that the Tibetans themselves feel that these institutions have been instrumental in helping save their culture and religion. But it is equally true that, as a people, we have not thought it necessary to learn from the Tibetan masters. In this sense, the policy of successive governments of India, the policy of shutting our eyes to what is happening in Tibet and what China is doing around India is representative of the way we have shut our eyes to the presence of Tibetan masters in our midst.

As a people and as a country we will pay for this ill-karma.

It is often said, "But we had no option in 1949-50." Take that to be true for a moment. The tragedy is that six long decades later, we remain a country without options.

The truth is harsher and lies in what Guru Nanak said:

Bal chchutkyo, bandhan pade, kachchu na hot upaaye
Kahe Nanak, Hari gaj jyon hi ho sahaaye

Bal howa, bandhan chchute, sab kuch hot upaaye
Nanak sab tumhre haath mein, tum hi ho sahaaye

It is weakness that lies at the root. The rest, accepting Chinese "suzerainty" one day, "sovereignty" the next; accepting Tibet as an autonomous region within China one day and as an internal affair of China the next; these are just successive steps to "operationalize" that weakness, so to say. Unless we acquire strength comparable to that of China; unless we build up an alliance system with other countries that are concerned about Chinese intentions and might, we will be left with hope as our only policy: the hope that "ultimately truth triumphs," that "ultimately tyrannies dissolve," the hope that like all else "ultimately China too will evolve towards freedom and democracy."

would heed it—we should do what little we can to keep Pakistan busy in its problems.

We must set aside a misconception at the outset. Given the concerns of the United States, and the nature of reporting, it would seem as if the problem are the Taliban. But the Taliban are not the *cause*, they are the *result* of the Talibanization of Pakistan's State and society. The reluctance with which the Pakistan Army and Frontier Guards have been dealing with them itself points to the extent to which Pakistani forces are Talibanized. It also points to earth faults that no purposeful adversary would miss: one of the reasons these forces have been dragging their feet is that the Frontier Guards consist largely of Pashtun soldiery (bossed by Punjabi officers); a fair proportion—20 per cent, on some estimates—of the soldiers of the Army also are Pashtuns; they are naturally reluctant to kill their own. They are equally reluctant to kill those who have taken up the very banner on which Pakistan's forces are reared, namely *jihad*. The net result has been put well by my perceptive friend, Sushant Sareen: "The bottom line is that instead of the Pakistani Army exercising control over its *jihadist* assets," he writes, "the Army itself has become a strategic asset of the *jihadis*."

Today it is being pressed by the Americans to move against the Taliban. Will it move only against those limbs of the Taliban that are traditionally opposed to following the Pakistani line? Or will it also move against those limbs, that led by Jallaluddin and Serajuddin Haqqani, for instance, that have had the closest links with the ISI and the Army itself, and have done their bidding? Even if it moves against all limbs of the Taliban, will it move against the *jihadi* organizations in Punjab and POK that it has reared to destabilize India?

Moreover, when it acts as a result of external pressure—of the Americans, in this case—before we hail the turn-around we need to ascertain the bargain that, say, the Americans have agreed to in turn. Have they assured Pakistan that, once they leave, it will be free to exercise control in Afghanistan? Have they agreed that, as the Pakistan Army moves to crush the Taliban, they in turn will turn the screws on India over Kashmir?

For us there is an additional reason to sit up. There has been one thing alone that has united even the non-Taliban State and Army: hatred for India. They have had but one shared conviction: that they

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have an Allah-given mandate to dismember India, and, therefore, one objective. Should the Islam-*pasand* terrorists acquire greater sway, the fervour against India will indeed be intensified. In all terrorist literature and rhetoric, *"Amriki-Yehudi-Hindu,"* "American-Jew-Hindu," "Palestine-Chechnya-Kashmir," are clubbed, they are one, hyphenated expression. But there will be one change. The objective will not be to dismember India but to take it whole, and to take it *for Islam*. In the 1940s also the Maulanas, apart from scoffing at and lampooning Jinnah for his personal life, maintained that his project was grossly misconceived: the whole of the subcontinent is open for Islam, their thesis went, and this man is confining it to two corners of it. As the decades have rolled out, it is not Jinnah who has prevailed, it is Maulana Maudoodi. Furthermore, to Islamic fundamentalism has now been added national pride: unable to squeeze the support that ISI and the Pakistan Army have been giving the Taliban and al Qaeda, the Americans have been using drones inside Pakistani territory. This has deepened resentment against the Americans, and, simultaneously, it has shown up the rulers ineffectual in getting the Americans to cease and desist—to be nothing but double-talking puppets of Americans. As a result, the Taliban, in addition to being the "devout, if misguided" warriors for Islam, are coming to be seen as the ones who are standing up to the Americans.

Either outcome will spell additional trouble for India. If the *jihadis* continue to prevail, that will secure them the Pakistani State. If the Army, upon being pressurized or induced by Americans, halts them, and saves the State from falling into their hands, it will become more Islamic, it will secure more power. Again, Sushant Sareen has put his finger on the spot: every setback has been attributed to insufficient Islamization, to insufficient power; hence, after each setback, the Pakistani Army has become *more* Islamic, it has acquired *more* power. And when it has succeeded in quelling some section, for instance the Baluch, its success has been taken as the occasion for ever greater Islamic fervour, its success has been the vindication that entitles it to even greater power and presence in Pakistan's life and affairs.

And then, there is the problem of what to do with its progeny, the *jihadis*. One outlet will be to help them recapture Afghanistan. That objective is one of the main reasons on account of which Pakistani agencies and forces are not doing anything near what is required to

staunch the Taliban and al Qaeda. But acquiring Afghanistan is an instrument: the main reason for recapturing it will be to reacquire what Pakistani strategists have called "strategic depth" *vis a vis* India. The main outlet, the main objective will be India, and ultimately, the one "solution" that Pakistan's forces and agencies will see for getting the *jihadis* to stop creating trouble within Pakistan will be to deflect them to India.

Events of the last two years have left no one in any doubt whatsoever about three, conjoint facts: the epicenter of Pan-Islamic *jihad* is Pakistan; the *jihadis* are the creatures of Pakistan's agencies and Army; for this and other reasons, the Pakistani State will *not* eliminate them fully. And yet, these very years also leave no doubt that the three props of Pakistan—the United States, Saudi Arabia and China—will continue to arm, accommodate and finance Pakistan. And Pakistan, in turn, will continue to use the aid and arms against India.

A related development which will affect our security in the immediate future, a development which transcends Pakistan but which is now centered on what is happening there, is the foreseeable withdrawal of the United States in defeat: from Iraq, Afghanistan and Pakistan. One American official after another is talking of the "moderate Taliban".[1] This is nothing but a fig leaf to cover the withdrawal, it is the rationalization for withdrawal. It is the

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[1]For instance, in February 2009, the US Defence Secretary, Robert Gates was in Krakow for a NATO conference. The correspondent from Geo Television of Pakistan, saying that there had been a lot of criticism in Washington, in particular from Richard Holbrooke, about the deal that the Pakistan Government had made with the militants in Swat Valley, asked, "If Pakistan succeeds in that particular area to pacify the militant activity, will the United States allow the Afghans to make a similar type of agreement?" The Defence Secretary replied, "Well, we have said all along that ultimately some sort of political reconciliation has to be part of the long-term solution in Afghanistan. And so I think that if there is a reconciliation, if insurgents are made to put down their arms, if the reconciliation is essentially on the terms being offered by the government, then I think that we would be very open to that. There is going to have to be some political component of reconciliation before this all ends." (US Department of Defence, News Transcript, 20 February 2009.) By the evening that remark, in particular the statement that "we would be very open to that" was seen to have let out too much! So, as *The Huffington Post* reported, later the Pentagon spokesman Geoff Morrell said: "The Secretary is too polite to take issue with the premise of the question, but he was in no way equating the prospect for reconciliation in Afghanistan with whatever deal the Pakistani government may or may not be trying to cut with militants in Swat province." Cf., *The Huffington Post*, 20 February 2009.

old formula, "Cry *'Victory,'* and run." And the thesis has the familiar author: it was floated by Musharraf four years ago. Apart from some tribal leaders who dominate particular regions in Afghanistan, the Taliban who will be christened "moderate" will be the ones ISI certifies. Will the Haqqani limb be more "moderate" in the consequences it inflicts on India—for that is what should be our first concern—when steered to do so than the one controlled by Baitullah Mehsud?

US withdrawal, howsoever it is dressed up, will be a great boost to Islamic fundamentalism. "We have driven out the Great Satan," the cry will go up. Though triumphant, the extremists will continue to find it difficult to get at mainland US for any sustained operations. Pockets in Europe will be somewhat easier to get at, but only for the occasional, if dramatic attack. A few "modernist" regimes in the Middle East will certainly be in the sights of the extremists—for their wealth, for having invited the "corrupting" culture of the West, and for hosting the United States in particular. But it is India that will have to bear the cost most of all as it is, by far, the easier target: its society is open and soft; its State is, and is seen as, ineffectual and porous, and the country is high up in the demonology of Islamic terrorists.

Nepal: One of the costliest blunders of the Manmohan Singh Government has been in regard to Nepal. Even as the situation deteriorated, it stood paralysed. Eventually, it just outsourced the country's foreign policy to the CPI(M). The Maoists attained power. The monarchy was abolished. China, which had kept in touch with both sides to the conflict, got the gateway to descend to the southern slopes of the Himalayas. Since then, it has been using the opportunity at great speed to spread its presence and influence in the country. Even under the earlier regime, Pakistan had begun using Nepal as a significant base for anti-India operations and propaganda. The string of *madrasas* and mosques that had come up right along the Indian border—even in areas, like the two districts directly touching the Chicken's Neck in North Bengal, in which the Muslim population was minuscule—bore physical testimony to its operations. With China now in the front seat, Pakistan is bound to have an even easier time to work its plans. Even with the Maoists out of office, Nepal is liable to pose great difficulties: even if some other

conglomeration of parties holds office, it is certain to be preoccupied with just hanging on. China and Pakistan will have a free field to extend their influence, to enlarge their pockets.

Bangladesh: Change of governments in Dhaka notwithstanding, Islamisation proceeds apace. As the mutiny of Bangladesh Rifles attests, the hold of the civilian Government remains tenuous. In particular, the civilian Government has not displayed either the willingness or the capacity to take any steps that would effectively check infiltration of illegal migrants into West Bengal and Assam, an infiltration that has already altered the demographic balance in large parts of both states, so much so that who shall be elected in over a third of the seats in the Assam Assembly and in close to a fifth in the West Bengal Assembly is now decided by illegal migrants from Bangladesh.

The one good development that has taken place in South Asia has been in *Sri Lanka*. At long last, the Government of Sri Lanka has vanquished the LTTE. But there are two aspects of this to which India will have to be alert in the coming years. First, while the Government of India, dependent on the DMK, and therefore mortgaged to Tamil politics, stood paralysed, Pakistan sent arms and assistance to the Sri Lankan Government. This help secures it, and through it for its ally, China, presence in the country and influence. Second, were some of the LTTE cadres to have escaped, at least some sections would be eager to help them set up pockets in the Nilgiris, or links with our insurgents.

But, while each of these is cause for concern, even together they are in the second order of smalls when compared to the major threat that India confronts in the near and long term, the threat from *China*.

China has a definite view of its place in the world: it aims at being the preeminent power. It has leapt ahead: thirty years ago, in many ways it was not just at par with India, it was even behind India. Today its economy is three times India's. China's rulers have translated economic strength into military muscle, as well as diplomatic influence. So much so that no country is prepared to speak the truth to or about China. At the same time, China has a definite view about India: that it is a potential nuisance, and, therefore, it has to be kept busy in South Asia. Accordingly, China has ringed India: Pakistan as a willing instrument; a fully militarized and nuclearized Tibet;

a friendly Nepal; Bangladesh with which it has a military pact and which is by now dependent on it for arms and equipment; Myanmar as a dependency. Furthermore, only the deliberately blind will miss to see that China is using every opportunity to thwart India, whether it be to forestall any chance there might have been of reorganization of the Security Council that might have given India a seat; or it be the prospects of closer relations with ASEAN. Notice how it has maneuvered to ensure that the swap arrangements under the Chiang Mai Initiative remain confined to ASEAN+3, namely, China, Japan and South Korea, and India is resolutely kept out; its latest in the region has been to take the absolutely unprecedented step of blocking the country plan of the Asian Development Bank for India as one component, one tiny component of it was for a project in Arunachal; China has systematically gone back on each of the ten principles that had been agreed to for settling the border dispute; it is being more and more explicitly aggressive: along the border, in public declarations of its claim to Arunachal Pradesh.

Non-State groups

In addition to such developments among the States in our neighbourhood, we are naturally affected, as are others, by the emergence of non-State groups. In our case, the problem is redoubled for at least two States have patronized groups that are hostile to India: Pakistan openly—"*Jihad* is an instrument of State policy," Musharraf had declared; and Bangladesh on the quiet—in the shelter it has hitherto given to ULFA cadre and leaders, and in the easy access that other insurrectionist groups operating in Manipur and elsewhere have had to pockets in Bangladesh.

But even without State patronage, the non-State groups present a formidable challenge to our security.

Bearing in mind what just half a dozen terrorists can do, the first thing we have to bear in mind is their sheer number. Vikram Sood reminds us that there are around 18 million unlicensed weapons in Pakistan; that around 2.25 lakh to 6.5 lakh extremists have been trained in extremist establishments.[1] Second, they are not

[1]Vikram Sood, "Can Pakistan survive?,"*Eternal India*, Volume I, Number 4, January 2009, pp. 34-47.

"primitives". On the contrary, they have displayed extreme sophistication in the technologies they have used; in their organizational skills—it has been almost impossible for any intelligence agency to penetrate their structures; furthermore, while knit by a common ideology and objective, they have set themselves up in organizations that are so loose that, even after key operators have been killed, they have been able to continue their pursuits. Third, the intense motivation they have been able to instill in their adherents, personified by the suicide bombers who blow themselves up. Fourth to sixth, as George Friedman has noted in *America's Secret War,* they have displayed strategic thinking of a very high order: even though some of the things they expected have not come to pass—the Arab street has not boiled over against local rulers, the main one has: they *have* been able to draw the United States into operations that the Islamic world sees as a war against Islam; operation after operation that they have executed, 9/11 being the most spectacular, has shown their enormous skill at planning tactically and executing those plans.[1] Next, their enormous patience, their relentless perseverance: traits that can prove decisive when wearing down, say, the Indian upper and middle classes that weary so soon, that are so soon distracted from even the severest blow. Furthermore, almost all the groups that are threatening India's security have become self-sustaining: just as al Qaeda and the Taliban garner resources by taxing opium cultivation, groups like the Naxalites garner all they need and more from the taxes they collect on contracts given out by the state and Central governments for development in the areas the former control.

And the groups are increasingly linked. Al Qaeda, it would seem is, in fact, run on a franchisee system—locally active groups or individuals link up to a loose central cloud-of-an-entity. In our case, an agency like the ISI, after it had spawned a series of Islamic groups in the Northeast, linked them up with groups like ULFA. We can be certain that, even as we meet, agencies like the ISI would be active in extending tentacles to Naxalites, and linking them with SIMI, the "Students Islamic Movement of India", and other pan-Islamic groups.

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[1]For a representative account which brings out the diabolic brilliance that underlay 9/11, George Friedman, *America's Secret War*, Little, Brown, New York, 2004.

Finally, it is evident that with their resources and patrons, these non-State groups have access to more and more lethal weaponry, and better communication equipment. And if we look ten/twenty years ahead, we must reckon with the possibility that these groups will get their hands on weapons of mass destruction—biological, chemical, nuclear—and that they will be able to transport them to their intended targets. Biological weapons can be made in a garage, and transported in a vial. Even in the case of nuclear weapons, we have to bear in mind the amounts of uranium and plutonium that have gone missing from various countries—from constituents of the former Soviet Union, of course, but also from Japan, from UK; the activities of proliferators such as A.Q. Khan, how these were deliberately overlooked by governments not just of Pakistan but of the United States; the close intermeshing of Pakistan's agencies and the Taliban and al Qaeda; as for transporting the weapon, Friedman's book cited earlier, to go no farther, lists a telling comparison: the Hiroshima bomb was a 13 kiloton one; a suitcase to transport a 10 kiloton nuclear bomb would have to be just 24 inches by 16 inches by 8 inches; and it would weigh less than 30 lbs.[1]

The longer term

And then there is an array of factors that will affect our security in the longer term. Among these are:

- The gallop of technology: combatants will soon have an almost perfect view of what their rival is preparing to do, and is doing on the ground across the border, not just what he is building up to do a few months from now, but what he is doing at this very moment in the battlefield: accordingly, surprise will have to be of an entirely different sort; robotic vehicles—they are already being used for clearing mines, for surveying areas where enemies might be hiding and bombing them, even robotic infantry is just round the corner; and, of course, there is the lightning rush to miniaturization of explosives, up to and including nuclear devices; of sensors—in next to no time we will have swarms of

[1]George Friedman, *op cit.*, p. 213.

nano-sensors flying over an area and reporting back to headquarters half way across the world.

- The same goes for spheres farther afield: in regard to anti-satellite capabilities, for instance, through the kinetic destruction of one of its own satellites, China has given a public demonstration of what it can already do, and, what with the work being done on lasers and other kinds of weaponry, the method it used, of sending a missile up to destroy an asset in space, will soon be seen as a primitive method of taking out an adversary's eyes; similarly, for years it has been systematically building up its capacities for Information Warfare with the singular objective of paralyzing the "acupuncture points" of another country.
- Competition over resources is already intense. It is liable to get more so, and not just over oil. China has moved far ahead of us not just to preempt oil reserves, it has begun engineering work to divert Tibetan waters to north and east China.
- Demographic changes: the fact that the populations of countries as diverse as Spain, Italy, Russia, Belgium, Japan are declining is certain to cause tectonic shifts: with its population already less than that of Pakistan, and declining; with third world diseases like tuberculosis and alcoholism having returned; with life expectancy hovering at the level of Bangladesh, how will Russia maintain the land army that will be needed for keeping the influence of rivals like China at bay in Central Asia? How will it ultimately wall out the Chinese from Siberia? Similarly, the fact that the rates of growth of Islamic populations, in the world as a whole as well as in individual countries like ours, are much higher than those of non-Islamic peoples cannot but have profound effects: after all, the fact that in a large number of our constituencies, Muslims can already determine who gets elected is already having major effects: it has led Muslim intellectuals to draw attention to these constituencies again and again by circulating maps, and thereby urging Muslims to realize the strength and influence they would acquire by welding themselves into a vote block; that very fact has led almost all "secular" parties to pander to Muslims as Muslims. Elements of this pandering bear directly on security: leads have not been

followed, suspects have been let off, organizations like SIMI have not been nailed, illegal infiltrators have not been thrown out as they are Muslims; a terrorist convicted of attacking the Parliament no less cannot be hanged.

- Climate change: as the Himalayan glaciers melt, our food security will be jeopardized, the shortage of drinking water, already acute, will become explosive; by the time oceans rise just two feet, a good part of Bangladesh's coastal areas will go under water and the rationalization for making their way into India will become even greater in the eyes of the people and rulers of Bangladesh.

One additional factor should be kept in mind, and that is the lightning pace at which change is occurring. Even demographic changes are now proceeding at a pace that, in just twenty/thirty years from now, demography alone would have caused dramatic shifts in the balances to which we are accustomed today. As far as other factors are concerned, "lightning pace" indeed describes the changes that are taking place. Forget technology, recall just the collapse of Soviet Union and how swiftly it changed the world, how swiftly it altered the options that were available to India. Recall the vicissitudes through which the United States has passed: how it was being written about after Vietnam; but then how its position catapulted with the disintegration of the Soviet Union; but how swiftly it got hobbled in Iraq, and now in Afghanistan and Pakistan. Look at the speed at which China has acquired the position it has today. Look at the pace at which the situation in Pakistan has changed. Look at the pace at which Maoists spread, and acquired power in Nepal . . . And look at the pace at which the nature of war is changing: from Vietnam to the First Gulf War; from a conventional challenge in the First Gulf War to that posed by terrorist groups in Afghanistan and Pakistan. Look at the frequency and effectiveness of cyber attacks—the way the most wired country in Europe, Estonia, was paralysed for over a month; the way Georgia was buffeted; the almost weekly attacks into the systems of countries and agencies that we would think are most secure. Defence policies and forces have, therefore, not just to change; they have to acquire the meta-capacity to keep changing, and to keep changing at lightning speed.

Implications across the board

Each of these likely developments has myriad implications for our Defence Policy:

- We have to make up for the manpower crisis that has developed in the armed forces as lucrative avenues have opened up with the growth and modernization of the economy.
- We must do, we *can* do much, much more in regard to weapons production. The record stretching over decades shows, that we cannot rely on the DRDO, the Defence Research and Development Organization alone. Contrast what we read about China's pursuit of "assassin's mace" weapons, of "magic weapons" with what we know about systems that were to have been developed by DRDO a decade ago. Considerable scientific, technical and engineering potential has developed in our private sector. We must mobilize it for equipping our forces. Apart from the help that doing so will give our defence preparedness, doing so will help develop our capabilities further. We can and must do much more to get foreign arms manufacturers to set up production facilities in India. To begin with, we must rid ourselves of miasmas by which we feel secure when we import entire systems from abroad, and feel we are jeopardizing our security when we are roping in Indian and foreign private producers to manufacture the items here.
- Weapons procurement: acquisitions have slowed to a crawl in the last few years. As a result our preparedness has certainly suffered. The major responsibility for this lies without doubt with Ministers. But I am surprised at the number of times even defence personnel say that, what with Bofors and other inquiries, it is safer not to take a decision than to take one and have oneself dragged into an inquiry. How can honest, upright men, men who are prepared to risk their lives on the front, be sent into such a scare by the prospect of inquiries? To face up to the enemy, we need dispatch in decisions; we need officers with integrity, with reputations so solid that no one will even doubt that they would have decided one way rather than another for collateral reasons. But we also need dispatch and integrity of another kind—in

inquiries, if any are initiated. They must be concluded swiftly. And the few who are corrupt must be punished, lethally punished. That is the cure, rather than adding yet another loop into the decision process.

- Intelligence: Each time the terrorists succeed there is a spate of news stories: "RAW had warned," "Centre had written to the state" . . . There are several limbs to the matter. First, we need operational, actionable intelligence, rather than cover-your-backside "A terrorist strike during Republic Day cannot be ruled out" reports. Second, traditional capacities have to be broadened to cover the entire range of hostile actions: when the instrument of choice is to send large armies across borders, a few agents across the border or satellite images will do; but when we must track down half a dozen terrorists, an entirely different order of penetration and surveillance is required; when the enemy is preparing the soil through political, economic, agitational initiatives to penetrate and acquire acceptability, as Naxalites do over a long time, yet another sort of early warning system is needed. Moreover, we have to devise ways to overcome the asymmetry that handicaps us *vis a vis* both religiously instigated groups like Islamic terrorists, pathologically hostile countries such as Pakistan, and a would-be hegemon, China, a closed society. Access into such groups as well as such countries is so very difficult contrasted with the ease with which an open, loose society like ours can be penetrated. And in the case of each hostile country and group, we need to develop two entirely different types of information. Our agencies have to be in a position to provide decision makers with information about individuals, their nets and relationships: how will Kayani react in a crisis? But they must also be able to provide forecasts at a macro level of the possible evolution of countries and forces: where are the countries hostile to us liable to be in the coming decades, where are those with whom we can hope to ally liable to be? How will each possible future of each of these countries affect our interests? Our agencies are quite deficient in providing either sort of information. I remember how exasperated a decision maker was by the sort of data that was made available to him about General Kayani when the latter took over as Army Chief in

> Pakistan. But there is the other dimension in addition: some of our intelligence officers have been weaned as fixers for rulers—their core competence is in fixing the individuals whom the rulers of the day find inconvenient. They carry this approach to intelligence over to external intelligence also: how well what George Friedman says about US intelligence applies to our agencies—the CIA is excellent, he says, at telling the American President what the ruler of country X told his mistress last night, but very poor at forecasting the next big thing![1] But in our case, even the salacious information our agencies may put together about the target person cannot be put to use to suborn him as he is quite out of reach!

Gathering relevant information, drawing the right inferences from it are the necessary first steps, but they are first steps. We need an administrative and governance system which will, in fact, take the requisite action on what the agencies say. Recall how for a year prior to, and right up to just three days before the assault on Mumbai, the Home Minister, the National Security Advisor, the Prime Minister himself had been declaring in speech after speech that cadre of Lashkar-o-Tayyaba were being trained to, and were therefore liable to, use the sea route to carry out strikes in a coastal city like Mumbai. In the event, the cadre of exactly that organization used exactly that route to execute exactly that assault in exactly that city.

That last illustration points to the central difficulty. More consequential than any of the developments we listed above—from events in Pakistan to the attitude of China, from technological change to climate change—is going to be our capacity to respond to them, and this is where lies our principal vulnerability. The alarming decline of the type in public life, the resulting paralysis of institutions; the trivialization of discourse; the evaporation of governance from large parts of the country; a State and society that do not want to face facts—naturally, unless reversed, these factors will swamp whatever specific steps may be taken to deal with the sorts of individual challenges that have been listed above.

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[1]George Friedman, *op. cit.*, pp. 61-62.

We cannot pursue this aspect of national security on this occasion, though it is the very bedrock of national security, indeed of national existence. What we should be doing in regard even to the specific illustrations of measures that have been listed above will require in each case a separate lecture. Today, I shall list just a few propositions, and that too in a telegraphic manner, about items on which departure is necessary.

Two preliminaries

But first, two preliminary points:

- Our way of looking at things must keep pace with the changes, and change at the pace of those changes. Armies are often said to be defeated by "paradigm paralysis". Armies under the control of bureaucracies and political leaders who don't even have a paradigm are doubly in peril.
- As citizens, we are not in the defence establishment; most of us do not have access even to the media. Even so, we have a role to play. Preparedness, the direction preparations will take, the morale of armies, of people at large are affected by the general environment. We can contribute to that *even when we have no access to the decision makers or the media*. Consider:
  - How many of you have computers?
  - How many of you surf the Internet?
  - How many of you saw the news report about how an inquiry originating in the Dalai Lama's office uncovered a vast operation pointing to China through which computers in 130 countries were penetrated: everything in them was made transparent; information from them, even the keys that the users struck, were being relayed in real time to servers back in China's Hainan province; everything in them was opened up to being controlled by manipulators the targets did not even know about. How many of you saw the news item about this study?
  - How many of you then went on to download and study the Report? After all, the Munk Centre and the authors put the full text on the Internet the very day the papers reported their findings.

- We should track down information and disseminate it like the chain-letters of old, except that we can now use the infinitely more potent Internet. We should learn from groups and individuals in China. They outwit the authorities there: thousands and thousands of bloggers dodge Chinese authorities and their censorship to acquire and spread information. When we have computers, when we surf the Internet, when there is no one to block out information here in India, when in spite of these advantages we do not use the freedom and facilities we have and acquire the information that is so vital to our security and broadcast it, do we not forego what is in our power to do for helping create the environment that is needed to shore up the security of our country?

Things to do

Among the principal matters on which we need to change direction are the following:

1. Our basic, our over-riding objective must be to forge a strong India. A society in which everyone is pursuing money the way most are in India today just will not be able to meet the challenges that confront our country.
2. And that strength must be what the Chinese characterize as Comprehensive National Strength. The Soviet Union was the second most powerful country militarily; it collapsed without a shot being fired as its economy was stagnant and uncreative. Even today, Japan is the second largest economy in the world, but it counts for little as it lacks commensurate military strength and is unwilling to deploy such diplomatic influence as it has.
3. It is certainly not enough to be stronger than we were yesterday. We have to be stronger than are those who are out to harm us.
4. We must be stronger than our rivals will be years from now: that is, we have to begin acquiring the capacity to counter a capability that our rival is building—for example, in "magic weapons", in space, in Information Warfare—taking into account the

gestation period, the number of years it will take to acquire that countervailing capacity.

5. We must benchmark ourselves against the strongest rival who is likely to seek to hobble and harm us—in our case, and in our neighbourhood, that country is China.

6. As a country that does not plan to strike first, we have to equip ourselves for the entire range of possible assaults. All too often, in India, our discussions veer off into *"either/or"—either* lethal, light and wired forces *or* Special Forces *or* corps level forces. But the angle of vision should be, *"and also"*. No single formula, no single type of force, no magic switch will suffice. In this context, we must remember that, today, perhaps for the first time since Independence, resources are not the constraint: you just have to recall the colossal amounts that governments today throw away to see that this is so—in just the last year, Rs. 60,000 crore for debt relief; Rs. 30,000 crore for the National Rural Employment Guarantee Scheme; Rs. 50,000 crore for the Pay Commission; Rs. 1,00,000 crore for fertilizer and POL subsidies—you just have to total even these few items to see that we certainly have the resources for a great a leap in defence and foreign policy operations, including foreign aid.

7. But, in addition to deploying resources, we need to think anew. Today, as each strike orchestrated by Pakistan reminds us, we are a country without options. The time when large armies could be sent across international borders is gone, unless the difference between the adversaries be as large as that between the United States and Grenada, or Iraq and Afghanistan. Nor does the other measure that is shouted out each time there is a terrorist strike by Pakistanis, "Bomb the terrorist camps", promise any greater returns. The fact is that terrorists do not live and train in fixed campuses: three/four will gather, exchange information and messages, one of them will teach the others how to put together an IED, they will disperse. The one option that alone would be practical is to do a Kashmir to Pakistan in Pakistan.

8. But a capacity to exercise such an option cannot be built up in a week just because the terrorists have struck. It can be built only over 20 years, by unremitting effort over 20 years. But here, each government that comes, stops, if it doesn't reverse initiatives that its predecessor had commenced.

9. Acquiring a capacity includes acquiring the reputation that we *will* use the capacity we have acquired. The country should be viewed as a porcupine, not a peacock. The response must be swift. It must be seen to be in retaliation for what has been inflicted on us. It must personally hit those who organized and instigated the assault against us. And/or it must inflict an unacceptable level of damage on their country. That is why it is no more than an announcement of helplessness to keep proclaiming, "We will crush terrorists if they come *into* India." Why will the controllers of ISI and the Pakistani Army stop sending terrorists across when they know that all that India will attempt to do is to kill the terrorists *inside* India?

10. All instruments must be put to work for the same, designated purpose: when you invest in China, all facilities are swiftly given; as you settle into operations, pressures commence—to train locals, to share software; when China falls out with your home country, you are left in little doubt that unless you work to make your home country ease off, you will not be able to continue your profitable operations in China. Moreover, *all* agencies of the State work to ensure that you bend to serve the ends of China: when China invests in Africa, the economic ministries are not working on their own to acquire access to natural resources; several agencies are simultaneously working to acquire influence. And, make no mistake: China does not hesitate to use that influence. Recall the correspondence from Pakistan that was published by *The Indian Express* last year in which the Pakistani Foreign Office apprised its envoy in Nigeria of discussions with the Chinese Government, and instructed him to coordinate efforts with the Chinese representatives to ensure that members of the Organization of African States oppose reorganization proposals that might give India a seat in the Security Council[1]; recall the veto it exercised at the Asian Development Bank in January 2009 to block a routine plan for India because it included a project in Arunachal Pradesh. Similarly, we have only to recall the role that manipulating the international environment played in ensuring victory for the North Vietnamese to see how foreign and defence policies must move in tandem. And not just in a crisis. Even

[1] *The Indian Express*, 15 June 2008.

this elementary lesson is very important for us as our ministries and departments work in silos.

11. *We* must acquire the requisite capacities. There are several lemmas to this:

- ❒ We must work on an alliance system. Reflect for a moment: Which are the countries that will do China's bidding on Security Council reform? Which will risk anything in our interest?
- ❒ We must seek alliances knowing full well that each country, if it joins us, will do so for its own reasons, that most often these will be complex, and they will entail a balancing of many conflicting assessments within that country.
- ❒ We must work for an array of several intersecting alliances; different countries will join us on different issues: e.g., some are today apprehensive of Pakistan-centered terrorism, others are apprehensive of China's rise. Working with others is often exasperating but, as Churchill is reported to have said, the one thing worse than fighting a war with allies is fighting a war without allies!
- ❒ We should forge alliances not just with countries, we should also forge them with nationalities and sub-nationalities within countries—with the Baluch, the Pashtun, with the peoples who are being suppressed in Gilgit-Baltistan, in POK. If at nothing else, look at what Iran has been doing in Lebanon, what it is now doing in Iraq and Afghanistan.
- ❒ Indeed, we should seek to build alliances and working relationships not just with nationalities and sub-nationalities within countries but with groups. So many groups within China and abroad—at the Universities of Cambridge, of Toronto, and in several hubs of software development—are working to get around Chinese censorship, to get facts out about events in China, to get information to the Chinese. Are we in touch with them?
- ❒ We must not be, and must not be seen to be dependent on, or subject to the approval of any other country, certainly not one which our enemies can dissuade. That is, while we must work out alliances, our adversary must know that we will act on our own if necessary. Look at the way China has been able to dissuade France, Germany, the United States time and again just

by cancelling a visit, just by holding out the possibility that a contract may not come through. Were we seen to be susceptible to persuasion by one of these countries, would that country not be pressed to make us see merit in the Chinese position?
What is the inference that an adversary will draw when, while referring to the Pakistan-trained and -based terrorist attack in Mumbai, he hears the US Secretary of State, Hillary Clinton, tell the House Appropriations Subcommittee

> We worked very hard, as did the prior Administration, *to prevent India from reacting*. But we know that the insurgents and al Qaeda and their syndicate partners are pretty smart. They are not going to cease their attacks, inside India, because they are looking for exactly the kind of reaction that we all hope to prevent.
> So we do have a lot of work to do, with the Indian Government, *to make sure that they continue to exercise the kind of restraint they showed after Mumbai,* which was remarkable, especially given the fact that it was the political season.

And when he hears her testify that that work continues? For Mrs. Clinton told the House Committee that, when the US President met Manmohan Singh on the sidelines of the G-20 meeting, they discussed *"the issue of how India can do more to tamp down any reaction, on any front, like Mumbai could have provoked."*[1]

Would he not conclude that there is a device in Washington to "tamp down" India?

- Nor should we rely on even our closest allies to do our work for us. Each of them will proceed by what is in its national interest; by what is in its national interest as perceived by a handful; by what is in its national interest as perceived by a handful at that moment:
  - Recall the difficulties that Vietnam faced during its long struggle: in spite of the strongest opposition in the highest reaches of the Communist Party, Ho Chi Minh and his closest associates were forced to compromise at Geneva in 1954: the USSR wanted to ease relations with

[1]Hillary Rodham Clinton, Secretary of State, Remarks before House Appropriations Subcommittee on State, Foreign Operations, and Related Programs, Washington DC, 23 April 2009.

the West, China was loath to get into another war with United States so soon after Korea. North Vietnam faced difficulties of another sort when these two allies, on whom it was relying for assistance, fell out among themselves for reasons that had nothing to do with what it was doing to liberate South Vietnam.

- For years Saddam Hussein is good as a counterweight to Iran, then he becomes evil; one day the US Ambassador in Baghdad leads him to believe that, were he to press his claim to Kuwait, the United States would be indifferent as it is not interested in *inter se* issues among Arab States, the next his lunge into Kuwait becomes the reason for an all-out invasion; one day the Taliban are valiant fighters against the Soviet Union, today they are vermin who have to be squashed.
- At the present time, association with the United States is in our interest, given the attitude of China for instance. But we have to be on guard. There is a strong feeling in the United States that the Islamic world has come to conclude that it has launched a war against Islam. There is strong inference, therefore, that the US must ensure some outcomes that convince the Muslim world to the contrary: but it cannot do much on Chechnya because of Russia; beyond occasionally expressing some forked comment asking Israel to be reasonable, it can't do much on Palestine because of the influence Israel has in the US; the obvious focus, therefore, becomes India—that it should make concessions to Pakistan. Notice that, in these prescriptions, it is always *India* that should make the concessions. When Musharraf was strong, the counsel was, "But you *have* to bend half way to meet his expectations; after all, he is going to be around for long, and you will have to keep dealing with him." When he began weakening, the counsel became, "But you just *have* to do something that will enable him to regain legitimacy with the Pakis; after all, he is the best bet." He went. But the counsel today also is the same: "You just *have* to do something that would help stabilize the civilian government. After all, it is a civilian government

which is the best bet for peace . . ."

- Bearing these cautions in mind is vital as Americans already have enormous influence within the political and bureaucratic structures of India as well as the media. That was so brazenly manifest during the debates over the nuclear deal: recall the perverse reporting by our newspapers and channels during that controversy.

12. Civil-Military relations: today the political leadership does not lack just expertise, it lacks even elementary competence to assess the situation, to weigh options; it has the shortest of short horizon, when, as we have seen, to counter Pakistan's proxy war, to meet the challenge from China, we need to pursue policies for decades at a stretch; and the political establishment is hopelessly fragmented: it does not do the obvious things that are required for national security in the hope that not doing them will get it into the good books of Muslims; for the same reason, it throws away vital instruments—POTA, for instance—it drags its feet in cooperating with potential allies—Israel, for instance. The bureaucrats are little different: they are little politicians themselves, more and more of them are tagged on to some godfather in politics; their horizons are all too often as short as those of the politician they serve—their next posting, their Confidential Report, maintaining the hegemony of the bureaucracy in, say, the Defence Ministry. And they are parochial to boot: witness what they have done with the Sixth Pay Commission—even as the crisis in staffing the Armed Forces stares the country in its face.

The damage that was done by some Joint Secretary barring the Punjab police from using the requisite weapons to counter the terrorists, weapons it had in its almirahs; the harm that was done by rejecting pleas for snowmobiles in Siachin . . . these have been documented time and again. Yet the tradition remains to defer to them, to wait upon them to decide between alternatives: the other day, General Ved Malik, former Chief of the Army, drew attention to the fact that a draft "national strategy paper prepared by the military staff has been gathering dust in the National Security Advisor's Office *since January 2007.*"[1] Will the paper gain in validity, in the sense of it being more reliable, because the NSA or the Minister

[1] *The Tribune*, 25 April 2009.

appends his signature to it? I cannot think of a single person who would answer, "Yes". The only relevance of their seal will be that the paper can then be used as a basis for planning—recruitment, weapons systems, and the like. But the help that even a paper approved by these worthies would give in smoothening the passage for acquisitions, force formation, etc., would be marginal: a query from a Joint Secretary would still be enough to stall the measure for months; the Minister may continue to dither and not decide a proposal even though it follows directly from the paper he has approved!

The tradition of deferring to those occupying chairs in ministries has its roots in a time that is long gone when leaders like Sardar Patel and Panditji ruled. For reasons that have been sketched above, this tradition of deference, of subservience needs to be reexamined.

Several lemmas follow.

The first, of course, is that the leadership of the Defence Forces must provide, it must *insistently* provide strategic advice to civilian leadership.

It must do so to the point of resignation, if necessary. Senior officers of the Defence Forces are too easily discouraged by the discomfiture of General Thimmayya forty-five years ago, by the ministerial reaction to the statement by General Rodrigues that the Armed Forces could not but be affected by the deterioration in governance. I just cannot comprehend how persons who are willing to risk their lives for the security of the country are not prepared to risk losing an assignment at Army Headquarters, a promotion, or a decoration for the same security of the country. After all, what else can the politician or civil servant conspire and accomplish? And the fact is that, while he may be able to accomplish that little bit in regard to an officer or two, he just cannot do so on any scale or for any length of time. Legitimacy is no longer either with the political class or the bureaucracy. There is a key lesson from the American experience in Vietnam. Notice how those who were directing the US Armed Forces at the time viewed their diffidence in retrospect:

> It was clear during the Vietnam War and even more so since its conclusion that the Joint Chiefs of Staff and other senior military leaders disagreed with their civilian superiors on fundamental issues of war policy . . .
> Yet not a single member of the Joint Chiefs of Staff or senior field commander

> ever resigned in protest. "Not once during the war did the JCS advise the commander-in-chief or the secretary of defense that the strategy being pursued most probably would fail and that the United States would be unable to achieve its objectives," noted retired army general Bruce Palmer Jr. That at least the Joint Chiefs of Staff should have resigned has been the postwar judgment of many influential officers. "Somewhere in 1967 or early 1968," argued Phillip B. Davidson, Westmoreland's chief intelligence officer, "one or more of the Chiefs should have stood up and told the president publicly that that what he was doing in Vietnam would not work, and then resigned." Harry Summers Jr. believed it "was the duty and responsibility of his military advisors to warn (the president) of the likely consequences of his actions, to recommend alternatives, and, as Napoleon put it, to tender their resignations rather than be an instrument of their army's downfall." Army Chief of Staff Harold K. Johnson later regretted his failure to resign: "I should have gone to see the president. I should have taken off my stars. I should have resigned. It was the worst, the most immoral decision I've ever made." Chief of Naval Operations David McDonald also lamented (in retirement), "Maybe we military men were all weak. Maybe we should have stood up and pounded the table. I was part of it and I'm sort of ashamed of myself too. At times I wonder, 'why did I go along with this kind of stuff?'[1]

And that advice must be tendered as the unified stand of all three Forces. The top officers must not let the slightest inter-service rivalry, or consideration get to the politician or civil servant: for the politician as much as the bureaucrat will use the slightest cleavage to do nothing, to let the existing arrangements continue, at best to do the least, most convenient thing. Neither is competent to adjudicate disagreements between the Forces. Each will use the disagreements only to fortify his position as arbiter. That is another key lesson from Vietnam:

> The inter-service rivalries that the Kennedy and Johnson administrations inherited were so acute as to preclude all but minimal cooperation on behalf of a common objective. The Joint Chiefs of Staff were a committee of equals with a relatively weak chairman, and the individual service chiefs had no mandate other than to advance their own parochial agendas. Accordingly, they tended to serve up conflicting advice, lowest-common-denominator advice, or no advice at all. The JCS were unable to provide useful and timely unified military

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[1]Jeffery Record, "How America's own military performance in Vietnam aided and abetted the 'North's' victory," in *Why the North Won the Vietnam War*, Marc Jason Gilbert (ed.), Palgrave, New York, 2002, pp. 116-36, at p. 132.

> advice and to formulate military strategy. In the crucial decision-making period of mid-1964 to mid-1965, they could never seem to offer more than what amounted to single-service solutions stapled together . . .
> Such a cacophony of views made it impossible for the JCS to meet their legal obligation of providing the president the best military advice. It also permitted those disdainful of military opinion in the first place to ignore whatever advice was proffered. As a populist, Lyndon Johnson had an innate mistrust of the military. "It's hard to be a hero without a war," he once told the historian Doris Kearns. "That's why I'm so suspicious of the military." McNamara also had little use for military opinion, which he regarded as hidebound and simpleminded . . .[1]

Do the words not seem to apply, literally, to our case? "The Joint Chiefs of Staff were a committee of equals with a relatively weak chairman, and the individual service chiefs had no mandate other than to advance their own parochial agendas. Accordingly, they tended to serve up conflicting advice, lowest-common-denominator advice, or no advice at all . . . they could never seem to offer more than what amounted to single-service solutions stapled together . . ."

Of course, it is often argued that for the Services to tender unified advice, the Government must first institute the equivalent of the American Joint Chiefs of Staff with one head, etc. That, of course, should happen, but, as the American example itself shows, constituting such a body with one formal head will not make up for moral timidity. More than that, the record of the last few decades of governance in India, leads us to not put as much store by formal structures as on intense, incessant, perpetual informal discourse—among Chiefs of course, but also all along the line between officers of the three services.

13. Environment. It is a commonplace that the fighting spirit of the soldier is as important in determining the outcome as weaponry. It is equally a commonplace that today, when war is "unrestricted", when technology has obscured the difference between front and rear, between soldier and civilian, what determines the outcome is not just the spirit of the soldier alone or even that of the fighting forces as a whole; the morale and perceptions and the readiness of the general population to bear sacrifices are just as important, all the more so the longer the engagement lasts: the United States was defeated as much

[1] *Ibid*, p. 120.

by the sapping of morale *within* the country during the Vietnam war as by setbacks on the battlefield. "But you never defeated us in a battle," an American strategist told his Vietnamese counterpart years later at a conference. "That is true," said the latter, "but irrelevant."

The key is the confidence with which a society goes after those who assault it: today, as we have noted above, we cannot investigate cells, we cannot pursue suspects; the hands of security forces are tied in encounters; we can't stem Bangladeshi infiltrators; we are not able to hang Afzal Guru—even after the Supreme Court has confirmed the death sentence for attacking Parliament. The nature of discourse is such that the State apparatus is perpetually on the defensive.

The key is the extent to which people are prepared to shoulder sacrifices. There is so much talk about Kandahar, about the Government having humiliated the country by giving in to the demands of the hijackers and releasing the terrorists. I can testify from personal knowledge, and as one who throughout opposed any deal with the terrorists, to the enormous pressure that the media's coverage put on the senior leaders in those days. The channels and newspapers had just one focus: the country was bombarded with images of relatives of the hostages shouting and wailing and beating their chests, "The Government is doing nothing to get our sons and daughters released . . . Bring our relatives back, we don't care what happens, we don't care what you do . . ."

This is where the greatest confusion prevails. The consequence is a debility much more severe than the fact that we are not keeping up with the latest weapons etc. It isn't just that there is no consensus on what our strategic objective *vis a vis* Pakistan, China, Islam is; there is no informed discussion about it. What is it that MPs, that the media regard as vital to our national interest today? Aksai Chin? Siachin? Arunachal? Waters off the coast of Somalia? Will they see the country as being imperiled by any of these? Will they see that something vital to their own, personal existence is imperiled? Worse, given the adversarial nature of discourse and of politics today; given the ephemeral preoccupations of the media, the "breaking news" not even of this day, of this instant; given the way superciliousness has been made into the reigning ideology of the media; given the laziness by which once its reporter has got one person to say he is

"for" a proposition and another to insist he is "against" it, the typical channel proceeds as if its job is done; given all this, on every issue—from WTO to terrorism, Pakistan and China, from Aksai Chin to Arunachal—national resolve is dangerously dissipated.

The result is as obvious as it will be fatal. We often hear it said, we ourselves say, "Americans can't stand the sight of body-bags." In our case, the problem has become the opposite one: we don't *see* the body-bags. I have yet to come across a newspaper reader who can recall the *number* of CRPF personnel who were blown up by the latest mine or even *where* they were blown up. And this at a time when, as we noted above, war has become "unrestricted", when it has become "total", when it has erased distinctions between "front" and "rear", between soldier and civilian.

With this as the prevailing situation, people will be for the action as long as the going is good. The moment there is a reverse, they will take recourse to doubt: on our *locus standi*—as in regard to Kashmir every other day; as in regard to the India-China border. Ever so often, the most momentary difficulty becomes the occasion to urge that we give in. Recall what happened during the agitation that was whipped up in Kashmir when the state Government decided to lease land so that toilets and shelter could be constructed for pilgrims going to the Amarnath shrine. So-called "national" papers and magazines carried columns, "Time for us to give up Kashmir, to cut it loose . . ." The agitation was soon over. Elections were soon held. Another elected Government assumed office. Had we listened to the advice of the columnists, Kashmir would have been ceded. It would have been ceded yet again! Ever so often, I am left with the impression that were Arunachal or some other part to be hacked off one day, all that would happen is that it would fill the slot of that day's "breaking news", and that week's "War of Words": "Who is responsible for the loss? Panditji? Indira Gandhi? BJP?" Yet, ups and downs, setbacks and rebounds are inevitable in war.

The lessons are manifest:

- ❒ We must make nationalism respectable again.
- ❒ We must make pursuing the national interest legitimate.
- ❒ We must educate the people. Look at the cry that goes up after each terrorist attack, "Bomb terrorist camps in Pakistan."

But there are no fixed camps; second, bombing solidifies people behind regimes: from the bombing of Germany during the Second World War to the bombing of Hanoi and other targets in North Vietnam, that is what happened: will the same not happen if all we did was to lob a few bombs inside Pakistan? Should we not educate the people, even more so the politicians about such options?

- We must exhume the connections of, the selective humanism of liberals, civil rightists, peace-mongers. Recently, G. Parthasarthi, one of our foremost diplomats and a former High Commissioner to Pakistan, inquired, "Why don't we see them lighting candles at Wagha pleading with the Taliban to moderate their Islam?"
- We must make our decision-makers think beyond clichès. Is a united, prosperous, and therefore strong, Pakistan really in India's interest? Ajai Sahni is right when he reminds us that India is unique in the world and in history; it is the only country to have argued that a strong and united enemy is in its interest! Similarly, how often we hear it said, "We are a resilient people"? Ajai Sahni reminds us that the one sense in which we are resilient is that, whatever the blow, we soon get back to "our tawdry lives as before."[1]

So, educate, engage, train—the policy makers, as well as the people at large.

14. To help create that environment, that climate of opinion, to help weld a national resolve, to provide alternatives to the people, to the leadership, we require much, much greater intellectual work:

- Work that looks decades ahead: to likely transformations in the nature of warfare; to the likely evolution of countries—those on whom we rely today, those that oppose us today; to the likely availability of non-renewable resources, to the vulnerabilities in their continued and uninterrupted supply.
- Work that dissects the here and now: which weighs options that the country should have when the next attack on Parliament or the next Mumbai occurs, and spells out what needs to be done to acquire those options.

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[1]Ajai Sahni, "Counter-terrorism and the Flailing State," *Eternal India*, Volume I, No. 5, February 2009, pp. 39-40.

- As it is necessary to recalibrate the balance between the "generalist" civilians and the Armed Forces, personnel of the latter must undertake detailed analysis of the political decisions that affected our wars, that affect our preparedness today: the decision to halt our men as they advanced in Kashmir, having driven out the invaders; the decision to refer the matter to the UN, when even Liaquat Ali had not demanded that be done; the fatal assessment of China in the 1950s and early 1960s; the fine set of decisions that led to the creation of Bangladesh in 1971; on the other side, the Simla Agreement; the decision to lift an obscure preacher, Bhindranwale, for countering the Akalis; the decision to boost ULFA, and then the Bodo National Front to counter the Assam students; the decision to allow training grounds to the LTTE, and then to send the IPKF to squash them; the bus to Lahore, Operation Parakram; the compromises surrounding Rubiya Syed, Hazratbal, Charar-e-Sharif, Kandahar; the stop-go stances towards Naxalites, towards ULFA.
- In addition, a very detailed roster must be prepared of the costs that have been inflicted on the country, and on security personnel by specific decisions at the administrative level, and the failure to take decisions when these were required.
- Equally, we should study our successes: the way secessionist movements have been defanged in Tamil Nadu, in Andhra; the way insurrections have been quelled in Punjab, in Tripura; the way Naxalites have been crushed in Andhra by the Greyhounds in spite of the politicians . . .

The studies must be detailed, they must be absolutely candid. And they must not just be internal studies at the War College or the National Defence College. They must be widely publicized: so that people learn the cost of alternatives, so that our leaders learn to cease and desist, so that all learn to heed professional advice, in particular the advice of the Armed Forces.

So that such work may be done, several Universities must be enabled to have war-studies departments; the business community should be enabled to set up, truly autonomous, truly first rate think-tanks; and journalists should specialize in security matters. The most important thing in this regard is to desist from making bodies like the National Security Advisory Board yet another parking lot for accommodating persons who cannot be given places elsewhere.

All this should happen. But I would put much greater store by ex-servicemen: they must use their vast experience to write and speak. Few carry the credibility today that they do, most certainly the politicians and civil servants do not, and none can lay claim to the first hand experience that they have had on these matters. And they must not just speak, they must speak out, loud and clear:

Gar tan nahin, zubaan sahi, aazaad kuch to ho
Dushnaam, nalaah, haa-au-hoo, fariyaad kuch to ho . . .

15. Of course, over riding all this is the condition of governance, of the type of leaders we select from top to bottom. As K.P.S. Gill, Ajai Sahni and others have repeatedly emphasized, no amount of firepower can make up for a corrupt, illegitimate, ill-trained, ill-equipped, ill-motivated local police force, no amount of excellence in analysis can make up for a venal, short-sighted leadership that is chasing money, that is obsessed with its next election, that is prepared to throw away essential instruments and thereby sacrifice national security if doing so holds the promise of bringing a few votes, that hasn't competence enough to comprehend the advice that is put up, that hasn't the resolve to act on it.

But, though central to everything, that is a subject for some other occasion.

5.

"Either diplomacy or war"

"Trust but verify," the Prime Minister, Dr Manmohan Singh, says, invoking Ronald Reagan. Of course, Reagan did not just stop at enunciating a maxim. He worked to, and succeeded in helping dismember "the Evil Empire." One does not have to even ask whether the Prime Minister will do anything of the sort.

But take the maxim itself that the Prime Minister says he believes in following. Has all verification not already shown that Pakistan has not just been organizing terror-strikes against India, it has conducted a proxy-war continuously, unrelentingly for three decades? Evidence apart, haven't the highest authorities of Pakistan acknowledged as much? Did Musharraf not proclaim, "*Jihad* is an instrument of State policy"? Has Zardari not said just a fortnight ago that, indeed, Pakistan spawned terrorists? Has our Army not said just a few weeks ago that infiltration into Kashmir has been stepped up again?

The Prime Minister's reason for going on trusting is belief, it is faith, in the current leadership of Pakistan. He told Parliament on 29 July, "I sincerely believe that it is as much in Pakistan's interest as it is in ours to strive to make peace. Pakistan must defeat terrorism before being consumed by it. I believe the current leadership there understands that. It may not be very strong, but the impression that I have is that the current leadership understands the need for action. [What "may not be very strong"? The current leadership of Pakistan? The understanding that the current leadership of Pakistan has about the need to fight terrorism? Or the impression that the Prime Minister has formed of the understanding that the current leadership of Pakistan has about fighting terrorism?] I was told by their

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Based on a speech delivered in the Rajya Sabha, July 2009.

parliamentarians who accompanied Prime Minister Gilani that there is now a political consensus in Pakistan against terrorism. That should strengthen the hands of its leadership in taking the hard decisions that will be needed to destroy terrorism and its sponsors in their country."

Last time the faith was in George Bush—"The people of India love you, deeply." Will we never learn? When Benazir Bhutto was the Prime Minister, we were told, "No, no, you don't understand. She and Rajivji have excellent rapport. You see, they were at Cambridge at the same time"—as Mrs Indira Gandhi and Zulfiqar Bhutto had been at Oxford in their time! When Nawaz Sharif replaced Benazir, we were told, "No, no, you don't understand. He is a businessman. He is a practical wheeler-dealer. We can cut a deal with him." When Musharraf ousted him, we were told, "No, no, you don't understand. He is going to be there for years, in any case. It is with him that we have to strike a deal." When he weakened, the argument became the opposite: "You don't understand. We have to be generous and come to an agreement that he can present to the Pakis as a victory. Don't you see, the alternative to him are the *mullahs?* We *have to* trust him. We *can* trust him. You see, he has learnt from Kargil."

Now that Zardari and Gilani have replaced him, "I believe the current leadership there understands that." Advocates in the Rajya Sabha added the well-tested argument: "Don't you see, whenever there has been democracy in Pakistan, relations with India have been better? If we don't reach out, these current leaders will weaken. The Army will be back, and relations with India will worsen once again."

Trust apart, *are* Zardari and Gilani the "current leadership"? Is it not that collective—the Army, the ISI, and the organizations they have spawned, the LeT/JuD, and the like? On the one hand, the Prime Minister asks us to trust the new realization among the current leaders. On the other, in the same statement to Parliament, he reports that both Zardari and Gilani told him that "Mumbai was the work of non-State actors." Anyone who is prepared to swallow that does not know a fig about, or is deliberately shutting his eyes to, the pervasive presence and role of the Army-ISI and allied agencies in Pakistan's State and society. But even if that assertion is taken at face value, what does it establish? That Zardari and Gilani may be the "current leadership", they are not in control. How then can a new realization

among them, on which also the only evidence we have is the Prime Minister's gut feeling, "I believe the current leadership understands that . . .", be the basis of policy?

And what precisely is this current leadership prepared to "seriously address"? After the Taliban had reached within 100 miles of Islamabad itself; after the Americans had put the fear of a complete rupture into them, these "current leaders" began an offensive against the Taliban. *Only against the Taliban in its western provinces.* Indeed, even in that region, *only against those sections of the Taliban that have gone out of the control of the ISI-Army.*

Neither the "current leadership", nor, of course, the Army-ISI have raised a little finger against the terrorists and organizations they have reared in the East for assaults on India. Quite the contrary, as we shall see.

The moral is what it has always been: do not go by your assessments of "current leaders". Go by the nature of Pakistan's State and society. Go by the attitude of that State and society towards—not Pakistan; not the world; not the United States, but—our country. And in that, go by their attitude to what they have made into their obsession regarding our country—that is, Kashmir. Is there the *slightest evidence* that the basic attitude towards India, and towards what they insist is "the core issue" has changed in any way?

"But we cannot change geography," the argument goes. "Pakistan is our neighbour. It will always be so." For seven months, the Prime Minister says, we have used all bilateral and multilateral instruments. It is only after doing so that the new course embodied in the Sharm-el-Sheikh Joint Declaration has been charted. Actually, the only things that have been done are two: plead with the United States and others to do something; and go on talking to Pakistan at different levels. Naturally, this could not and has not yielded anything.

Pakistan will not desist from what it has for three decades been successfully inflicting on us for the simple reason that we are not able to, and manifestly do not have the nerve to inflict any cost on the ones who are orchestrating the assaults.

But it is diplomacy or war, says the Prime Minister, and the Congressmen echo him in chorus. There is no third alternative.

But even in *one* element—dialogue—of *one* of these alternatives, diplomacy, there are two alternatives! Dialogue after the

preconditions you have laid down are fulfilled. Or dialogue irrespective of whether what you said were preconditions are fulfilled or not. To get the answer to the question whether the choice is only the binary one that the Prime Minister posits—"Either diplomacy or war"—consider two questions:

- How is it that Pakistan has been able to use a third option against us for 30 years? The option, namely, to inflict, and go on inflicting violence on us, but always do so at a level below the threshold that would trigger a full-scale war?
- How is it that Dawood Ibrahim is able to live in style in Karachi and go on orchestrating operations against India? How is it that Paresh Barua and other leaders of ULFA are able to hide in plain sight in Dacca and go on killing people in Assam?

The answer is obvious: Pakistan has built the requisite capacities, and we have not. After every assault, therefore, we are left in the same quandary: "Either diplomacy or war." And "diplomacy" here means just going from one capital to the next requesting others to do our work for us.

But things obviously don't stop there. There is the further lemma: "And as no sane person wants to go to war, the only way is dialogue." And then the lemma after that: "As Pakistan has shown that it will not fulfill the pledge it had made of not allowing the territory under its control to be used for terrorism against India, there is no alternative to giving up the precondition . . ."

And so we recommence dialogue, confident that the next assault will make us forget the last one.

Foretold

In the wake of the attacks in Mumbai, the Prime Minister and others in the Government laid down two conditions for the resumption of talks and the "peace process": that Pakistan must bring to book the ones who had planned, controlled and directed the operations from Pakistan; second, that it must dismantle the infrastructure and groups that it had built up for terrorist assaults against India.

These two conditions were reiterated again and again in the months that followed. S.M. Krishna emphasized them as the new Parliament commenced. I said and wrote then that the Government

would be compelled to abandon these conditions and resume the so-called dialogue without any conditions whatsoever.

That required no astrology! The reason was simplicity itself. Americans are desperate to get out of Afghanistan. To do so while retaining the pretext that they have accomplished their objectives, they have to be able to claim that they have restored "normalcy". For that they are dependent on Pakistan. They will, therefore, have to do Pakistan's bidding. And that bidding will be, "Get us concessions from India." They will, therefore, force the Government to make concessions. And the modality for that has to be resumption of "dialogue".

The Government would have to do all this, I said, as it has become perilously dependent on the United States.

How much more "composite"?

That is exactly what has happened. The Prime Minister has had a meeting with the Pakistani President. He has had a two-hour meeting with the Pakistani Prime Minister. As *The Hindu* has reported, and as the Prime Minister has subsequently acknowledged, the head of the ISI, Ahmed Shuja Pasha, has met Military Attaches in our embassy in Islamabad. There have been meetings at other levels, the "formal Track-II", so to say. In the Sharm-el-Sheikh Joint Statement, the roadmap for further talks has been set out: Foreign Secretaries will meet "as often as necessary," the Foreign Ministers will meet during the forthcoming UN General Assembly session—which, incidentally, begins in just *three weeks.*

And the talks that have already started cover everything. The Joint Statement says that the two Prime Ministers "considered *the entire gamut of bilateral relations . . .*" Not just that. Our Prime Minister has pledged that "India was ready to discuss *all issues with Pakistan, including all outstanding issues*"—the last two words being a euphemism for Kashmir.

The Government makes out that the "composite dialogue" shall actually be kept in abeyance till, as the Prime Minister put it in the Lok Sabha, "Pakistan fulfils, in letter and spirit, its commitment not to allow its territory to be used in any manner for terrorist activities against India." Yet, as we have seen, the talks are taking place. The roadmap for further talks has been set out. The agenda is to cover everything.

A vital substitution

Several other aspects in regard to this sleight of words should be noted. Twice in his statement in the Lok Sabha, the Prime Minister; and then on 31 July 2009, S.M. Krishna in the Rajya Sabha laid down as the condition that "Pakistan fulfill, in letter and spirit, its commitment not to allow *its territory* to be used in any manner for terrorist activities against India." Ostensibly this is the commitment that it had made in the Joint Declaration of Mr Atal Behari Vajpayee and President Musharraf in February 2004.

Do you notice the change the Prime Minister and Krishna have made? In the Vajpayee-Musharraf Declaration the words had been carefully chosen: Pakistan shall not allow *the territory "under its control"* to be used for terrorist attacks against India—that meant the territory of Pakistan *and Pakistan Occupied Kashmir,* POK. Replacing "territory under its control" by "its territory", as Manmohan Singh and Krishna have begun doing, means either of two things: either that we now recognize POK as Pakistani territory, something that the Vajpayee-Musharraf Declaration specifically did not do; or that Pakistan does not have to do anything in regard to groups and infrastructure that it has created in POK and is using against India.

Another bit of bad drafting?

Furthermore, as "all issues, including outstanding issues" are on the table, has Parliament been told; have even the leaders of other political parties been taken into confidence; I dare ask, have other members of even the Cabinet Committee on Security been taken into confidence about the contours of the "solution" to Kashmir that the Government is prepared to arrive at with Pakistan?

Apart from the intrinsic importance of the issue of Kashmir, there are two reasons why the question is important. First, as we saw in the Nuclear Deal, and as we have now seen in the abandoning of preconditions to which the Prime Minister had committed himself and his Government, Manmohan Singh's stratagem always is to present everyone with a *fait accompli.* Second, the Resolution that the Parliament passed unanimously on Kashmir and which stands unaltered to this day is that the only unfinished business in regard to Kashmir is for India to get back the portion illegally occupied by Pakistan. Does the Government stand by that Resolution or not?

From foolhardiness to foolishness

Foolhardiness crosses all limits in two subsequent clauses of the Joint Statement. First, "Both Prime Ministers recognized that dialogue is the only way forward. Action on terrorism should not be linked to the composite dialogue process and these should not be bracketed" —an expression that gives, to use the expression much favoured by the Prime Minister, a clean waiver to Pakistan from the commitment it had undertaken in the Vajpayee-Musharraf Joint Declaration.

Nor can this be put to bad drafting. For it faithfully reinforces what Manmohan Singh had agreed to in the statement that he signed with Musharraf in April 2005. The peace process is "irreversible", the two proclaimed. Further, the two "pledged that they would not allow terrorism to impede the peace process." What was the result? Musharraf's Army and ISI continued to execute their murderous operations against India; and the onus to keep these from impeding the peace process fell on India! The consequence of the new Statement will be exactly that.

The next provision raises foolhardiness to foolishness: "Both leaders agreed that the two countries will share real time, credible and actionable information on any future terrorist threats." Imagine this pledge had been signed earlier. The equivalent of Zaradari and Gilani in Pakistan receive information that the Indian Embassy in Kabul is going to be blown up. You think they will pass the information to India? Remember that even the friendly American agencies were constrained to say that the ISI had planned the assault. Or look at it the other way: we get to know that terrorists have captured *Kuber,* and are moving in to attack Taj, the Railway Station, Oberoi in Mumbai; should we give that information to the Pakistani Government so that its agencies and the handlers may alert the terrorists?

Will we never learn? In July 2006, there were a series of blasts in trains across Mumbai. Two hundred were killed. What was the creative response of our Government? Within two months, in another act of faith, it set up a "Joint Mechanism" with Pakistan for fighting terror! This was presented as the great breakthrough, the result of out-of-the-box thinking—"For the first time Pakistan has agreed to cooperate in curbing terrorism. No earlier Government has been able

get Pakistan to do this." If you count only the major strikes by Islamic groups and only from six months after the Mechanism was formed, giving it time to get functional, so to say, and *excluding* all the strikes in Jammu and Kashmir and the entire Northeast, you bump into the explosions on 19 February 2007 near Diwana in Haryana: 68 killed; in Hyderabad on 18 May 2007: 11 killed; in Hyderabad again on 25 August: 44 killed; in Ajmer on 11 October: 3 killed; near simultaneous blasts in Varanasi, Faizabad, Lucknow: 15 killed; in Rampur on 1 January 2008: 8 killed; 8 blasts in Jaipur on 13 May 2008: 80 killed; 8 blasts in Bangalore on 25 July 2008; 17 blasts in Ahmedabad on 26 July 2008: 53 killed; 5 blasts across Delhi on 13 September, and again on 27 September 2008: 27 killed; 26 to 29 November 2008: assaults at multiple locations in Mumbai: 166 killed. In between, there was the attack on the Indian Embassy in Kabul in July 2008. And, of course, the attacks across Kashmir, and the Northeast . . .[1]

And all through the Joint Mechanism was holding meetings. Of course now, it will not just hold meetings. The Prime Ministers have pledged that it will also pass on or be furnished "real time, credible and actionable information"!

Narrowing even the single condition

That enumeration is a cruel reminder of another facet of our collective psychology: convenient amnesia. We allow, in fact, we almost *use* every assault to erase from our minds the memory of previous assaults. Of no one is this truer than of our governments. In the Joint Statement that our Prime Minister has signed, the demand that Pakistan dismantle and destroy the infrastructure and groups which it has set up to attack India, of course, finds no mention. Nor does any assault except the attack on 26/11 in Mumbai. The Indian demand has now been reduced to the minimum, that is, that Pakistan bring the organizers and directors of that single attack to book.

And notice what the Pakistani Prime Minister has pledged to do even in regard to this minimal demand. In the Joint Statement we are told, "Prime Minister Singh reiterated the need to bring the perpetrators of the Mumbai attack to justice. Prime Minister Gilani

[1]For an authentic, regularly updated enumeration, see the outstanding South Asia Terrorism Portal, *www.satp.org*

assured that Pakistani *will do everything in its power in this regard.*" And now see how things work out to the convenience of the perpetrators and organizers. Under pressure from countries across the world, Pakistan put the head of the LeT/JuD, Hafeez Sayeed, under house arrest. In the judgment which the Lahore High Court delivered on 6 June 2009, the High Court released Hafeez Sayeed even from the minor inconvenience of remaining in his own house, recording that not a single document had been brought on record that the Dawa or Sayeed or his associates were involved in the Mumbai incident. It also recorded that no evidence had been adduced to establish that Sayeed or any of his associates had any links with Al Qaeda or any other terrorist movement. Indeed, the Court went on to say that "the security and anti-terrorism laws of Pakistan are silent on Al Qaeda being a terrorist organisation." When the case came up before the Pakistan Supreme Court, the position was no different. The oral remarks that fell from the Chief Justice were along the same lines. Sayeed has, therefore, been set free even from having to remain in his own house.

How very convenient! To make a show of doing something, you ask the man to stay in his house. At the hearings, you produce no evidence. The Court frees the man even from that minor inconvenience. And you claim that you have done everything you had pledged to do. Recall that the Pakistan Prime Minister has pledged Pakistan to do "everything in its power in this regard." Surely, now the Pakistani authorities can say, "What can we do? Our courts have set the man free. Doing anything more about him or his associates is not in our power."

In fact, what more evidence is required for proceeding against a person like Hafeez Sayeed or Sallauddin who operates to this day out of Muzzafarabad in POK? Their speeches are available on tapes by the hundreds. The literature recording their hate-filled words and the murderous declarations of their organizations against India and Indians are available in piles and piles of publications. But, to the convenience of all concerned, the court insists on "specific evidence"; the Government produces none; the court sets the man free to work his evil. The commitment enshrined in the Joint Declaration is fulfilled!

The perpetrator as Judge

Nor is that the end of this predictable tale. The Joint Statement goes on to record, "He [the Prime Minister of Pakistan] said that Pakistan had provided an updated status dossier on the investigations of the Mumbai attacks and had sought additional information/evidence. Prime Minister Singh said that the dossier is being reviewed." That is exactly what I had warned would happen. Soon after the Mumbai carnage, the Government announced that it would give detailed evidence and information to Pakistan. At that very time, I warned of the consequence of doing so: you will be installing Pakistan on the seat of the Judge; the authorities there, the controllers of those authorities, the very ones who would have sanctioned and planned these attacks, will now be pronouncing on whether the evidence you have given them is sufficient and credible or not. Even the Home Minister, P. Chidambaram, has since been compelled to say that furnishing evidence to Pakistan has become an endless exercise; they just keep asking for more. As *The Indian Express* reported the other day, now Pakistan has asked for a sample of the "pink foam" taken on board *MV Kuber;* a statement from the Indian magistrate who recorded the confessional statement of Kasab; the testimony of experts who conducted the forensic examination of the GPS device; the testimony of experts that establishes that the terrorists were in touch with handlers in Pakistan; the interrogation reports of others who were first arrested, and so on. As for what we will do now, the Joint Statement records our Prime Minister assuring the Prime Minister of Pakistan, "the dossier is being reviewed"!

But through this dossier Pakistan has admitted that persons of and from Pakistan have been responsible for terrorist attacks on India, the Prime Minister says. This is the first time that Pakistan has made such an admission. The NDA Government was never able to get the Pakistan Government to admit as much . . . With Kasab in our hands, with his having made a detailed confession, admitting to the role of Pakistanis is the least that the Pakistan Government could have done.

I become the cause!

Then there is the howler regarding "Baluchistan and other areas." Apropos of nothing, the Joint Statement records, "Prime Minister

Gilani mentioned that Pakistan has some information on threats in Baluchistan and other areas."

Pressed to put up some sort of defence, Pranab Mukherjee told the Lok Sabha that this was just the unilateral view of the Pakistan Government. Is a *Joint* Statement of two Prime Ministers the place in which one of them records his unilateral assessment of some internal problem that is on his mind? And just see what the Prime Minister of Pakistan said immediately after the Sharm-el-Sheikh Statement was put out: "The Joint Statement underlines our concerns over India's interference in Baluchistan and other areas of Pakistan." The Interior Minister of Pakistan, the Chief of Staff of the Pakistan Army have all been asserting that India is behind the troubles, and not just in Baluchistan. Pakistan has blamed the troubles in Swat, the explosions at the Police Academy in Lahore, even the attack on the Sri Lankan cricketers on India. And here is our Prime Minister signing a Joint Statement incorporating this "unilateral view".

The Prime Minister told the Lok Sabha that he had categorically told the Prime Minister of Pakistan that India had nothing to do with the troubles in Baluchistan, etc. As that was the case, what was the difficulty in adding one sentence after that "unilateral view" of the Pakistan Prime Minister? Why could just a few words not have been added to record, "In response, the Prime Minister of India said that India had nothing to do with the troubles in Baluchistan or any other areas of Pakistan"?

But the Government and its backers were not done. In both the Lok Sabha and the Rajya Sabha, they invoked *me* to explain the reference to "Baluchistan and other areas" in the Joint Statement! Had I not said in Parliament, they demanded, had I not written that Pakistan will desist only when we acquire the capacity to do a Kashmir to Pakistan in Pakistan? Had I not said that Pakistan itself was presenting us opportunities in Baluchistan, Baltistan, POK, etc.? Had I not said, they asked, "Not an eye for an eye, not a tooth for a tooth. For an eye, both eyes. For a tooth, the whole jaw"? How can you now object to the reference to Baluchistan in the Statement? they demanded.

What importance these spokesmen confer on me! That two Prime Ministers should be moved to make a reference to matters just because of what I had said. I might as well say all that again. After all,

that is exactly the view I hold. And may be, by my saying it again, in the next Joint Statement they will refer to me by name!!

Faithful drafting

To attribute all these things to "bad drafting" as the Government's apologists have done, is worse than disingenuous. No official, certainly not a Foreign Secretary who has served the country with great distinction in the most delicate assignments for decades, would have slipped up on a document as important as a Joint Statement of two Prime Ministers. Quite obviously, someone whose command he could not disregard would have told him to agree to the words which we now find in the Joint Statement.

Moreover, the words faithfully reflect the convictions on which the Prime Minister, Dr Manmohan Singh, has been proceeding all these years. When the Joint Statement puts the victim of Pakistan's terrorism—that is, India—at par with the perpetrator of that terrorism—that is, Pakistan—it does so in furtherance of his oft-expressed view that Pakistan is a victim of terrorism. When this Joint Statement records, "Both Prime Ministers recognized that dialogue is the only way forward. Action on terrorism should not be linked to the composite dialogue process and these should not be bracketed," the Statement does no more than once again reaffirm what Dr Manmohan Singh pledged in the Statement he signed with President Musharraf in April 2005, namely that the two of them "would not allow terrorism to impede the peace process."

As a gale of criticism has engulfed the Joint Statement, the Prime Minister has begun using harsher and more explicit language. He is now restating the conditions that he had laid down after the attacks in Mumbai. But what counts in the long run is not the self-exculpatory statements that individuals may make. What counts is the text. Mr P.N. Dhar, the distinguished economist and one of the key aides of Mrs Indira Gandhi at the time, has recorded in detail how at the Simla Conference Zulfikar Bhutto had agreed to transforming the Line of Ceasefire along the Kashmir border first into the Line of Control, and eventually into the permanent international border, "the Line of Peace," to use Bhutto's phrase. He had then listed the difficulties that would ensnare him upon his return to Pakistan were the clause that had been drafted to be retained in the final text. He had said that he

would work to realise the understanding in the ensuing months, and that gradually the understanding would be translated into a reality on the ground. The steps by which this would happen were elaborated. At the last meeting, Mrs Indira Gandhi had repeated the understanding to him and the steps that would be taken to implement it. She had then asked, "Is this the understanding on which we will proceed?" Bhutto had answered, "Absolutely; *aap mujh par bharosa keejiye* [rely on me]." And so the clause that had been drafted was taken out from the final text.[1]

Both Mrs Gandhi and Bhutto are gone. As are several of the official members of the respective delegations. What survives is the text. And the fact that that clause was taken out at the penultimate moment.

Bhutto was to boast later on. Mrs Gandhi was nowhere his equal intellectually, he was to convey to Oriana Fallaci. He could take away eggs from under a bird, he said, and the bird would not know . . .

Characteristic

But red herrings are the well-practiced device. The Government has signed the End Use Monitoring Agreement with the United States. It maintains, with the same disingenuousness, that, in fact, the Agreement precludes the United States from unilateral inspections of equipment it supplies, that the venue and timing of the inspections shall be determined by India. This is how the Prime Minister put it in the Lok Sabha: "There is no provision—I repeat, there is no provision—for any unilateral action by the United States side with regard to inspection or related matters. India has the sovereign right to jointly decide, including through joint consultations, the verification procedure. Any verification has to follow a request; it has to be on a mutually-acceptable date and at a mutually acceptable venue. There is no provision for on-site inspections or granting of access to any military site or sensitive areas."

The United States supplies F-16 fighters. What will we do? Bring them for display and inspection to the India Gate? The United States

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[1] See, P.N. Dhar, *Indira Gandhi, the 'Emergency', and Indian Democracy*, Oxford University Press, New Delhi, 2000, pp. 187-222, in particular, pp. 186-97.

supplies some optical devices for our Air Force's aircraft. What will we do? Take them out of the aircraft for them to be inspected at some civilian venue?

The fact is that American officials—Condoleezza Rice, Nicholas Burns, and others—had repeatedly assured the US Congress that the Administration would ensure, what they called fall-back safeguards. That is, if the United States was not satisfied with the inspections that were carried out by the IAEA, the agreements to be signed with India would ensure that India would give access to United States inspectors to inspect the equipment and materials which had come from the United States. And the 123 Agreement specifically provided for this: all that it did was to replace the word "inspectors" by the word "experts". India pledged under that Agreement to "facilitate" the visits of those "experts".

The End Use Monitoring Agreement merely operationalizes that pledge, and enlarges it to cover all sensitive supplies from the United States. That is how the US Assistant Secretary of State, Philip Crawley said that this new Agreement is part of the understandings arrived at during the negotiations of the Nuclear Deal. But we are to swallow, "mutually acceptable date and venue."

The device is even more evident in regard to the Prime Minister's new observation in regard to the transfer of enrichment and reprocessing technologies. Throughout the discussions on the Nuclear Deal, when persons like me read out specific provisions of the 1954 US Act, of the Hyde Act, the Government spokesmen maintained, "But those are laws of the US. We are not bound by them." The question was: "Is the *US Government* bound by them? Will *US companies* that will be exporting materials and reactors and technologies to India be bound by them?"

Persons like me read out the specific provisions of US laws as well as the repeated affirmations of President Bush, Condoleezza Rice and others in which they pledged that India would not be given the processing and enrichment technologies, and that the US Government would work with other members of the Nuclear Suppliers Group to ensure that they also would not make such technologies available to India. But, "No, we are not bound by US laws or what US officials say . . . 'Full" means full . . ."

And now see what the Prime Minister has slipped in. Responding to the concerns which members had expressed about restrictions that seem likely on transfer of enrichment and reprocessing technologies to India, the Prime Minister told the Lok Sabha:

> . . . our Government is fully committed to the achievement of full international civil nuclear co-operation. Consistent with this objective in September last year, India has secured a clean, and I repeat we secured a clean exemption from the Nuclear Suppliers Group, one that was India specific. At that time also, there were attempts to make a distinction but we got a clean exemption which means that the Nuclear Suppliers Group consisting of 45 countries has agreed to transfer all technologies which are consistent with their national law.

Did you notice the last seven words—*"which are consistent with their national law"?* But, exactly as persons like me had pointed out at the time, the US laws—the 1954 Act, the Hyde Act, the new Act passed in October 2008 approving the 123 Agreement—prohibit the United States from transferring such technologies and they bind the US Government to work with other members of the Nuclear Suppliers Group to ensure that they also refrain from transferring such technologies.

That is the device: do what you will; present everyone with a *fait accompli;* and slip in a few words every now and then to establish that you have done nothing which you have not already said you would do!

Just the trailer

Each step is leading to the next one. The Joint Statement which the Prime Minister has signed with the Prime Minister of Pakistan and the indefensible concessions which he has made through it, are not a case of bad drafting. They are what the conductor—the United States—finds convenient. We should, therefore, open our eyes to what is coming: pressures to withdraw our troops from Siachin; pressures to grant "autonomy" to Kashmir . . . All this simply because the United States, dependent as it is on Pakistan today, to get Pakistan to curb the terrorists along its Afghan border, has, to deliver to Pakistan what the latter has not been able to get on its own.

Open your eyes now. No use wailing after the deeds are done.

"Dream Teams" and Reforms

6.

Navigating Reforms: shoals in, and lessons from India

Five features stand out about the course that Reforms have taken in India.[1]

By mid-1980s, "socialism" had institutionalized stagnation. But the political class was so much a prisoner of old slogans; power and patronage had so congealed around the devices that "socialism" had legitimized—controls, rationing and allocation by government departments, administered prices—that the rulers would not institute the obvious changes even as the consequences were staring everyone in the face. Persons like me who in the mid-1960s argued for liberalization were traduced as "agents of capitalists", as "World Bank-IMF men".

On top of stagnation, India faced bouts of extreme balance of payment constrictions in 1956-57, in 1965-66, again in 1980-81. The response of the rulers was unvarying: they went in for even more "socialism"; they tightened the controls even more; they added yet more loops to the regulations. But then the fount from which the ideological rationale for these controls and regulations flowed began drying up. As the Communist system came apart, as countries of East Europe—some of which had been hailed for decades in India as exemplars of industrial excellence—began to disintegrate, finally as the Soviet Union itself broke, in a word, as the Marxist Quran got disowned in its own Mecca, the critics became bewildered. But even then, correctives were not set in motion.

Based on the Harold Wincott Memorial Lecture, London, October 2008.

[1]I am very grateful to my friends Yashwant Sinha and Bimal Jalan for sharing their experience with me for the purpose of this lecture. The former as Finance Minister and the latter as Governor of the Reserve Bank of India pioneered and fought doggedly for a wide range of reforms. Sinha has described some of the examples I have given here in detail in his *Confessions of a Swadeshi Reformer,* Penguin, Kolkatta, 2007.

It took a complete breakdown in India's external account to furnish that weak and imprisoned political class the excuse to do the obvious things. That is the first feature: we commenced Reforms late: in 1991, that is more than 12 years after Deng Xiaoping triggered them in China. This late start has been one of the major causes for the vast distance that has come to be between China and India during the last two decades.

Second, while routine "reforms" like computerization of the customs and revenue departments, dematting of shares, etc. have, of course, continued to get done, Reforms of the more basic sort have been implemented only during two phases: during 1991-93, the first half of the prime ministership of Mr P.V. Narasimha Rao, and during 1997-2004, the prime ministership of Mr Atal Behari Vajpayee. As against these, Reforms in China have been more or less a continuous pursuit.

Third, the nature of steps that need to be taken has changed over the years. In the first phase, just abolishing some regulation—abolishing the requirement that you obtain a license before producing anything, before importing anything, even before exporting anything, and this in a country that was in desperate need of foreign exchange—was itself a leap. It liberated. But by the second round of Reforms, it was not enough to issue a decree. Privatization affords a typical contrast. In the first round, a minority of the shares that were held by government in State-owned enterprises was sold in the market.[1] Management and control continued in government hands. That this was no remedy became evident soon: the proceeds from the sale of government equity disappeared in the fiscal hole to finance governmental deficits; the character of the enterprises remained governmental—bureaucratic and unaccountable; hence, inefficient and uncompetitive. In the second round, we strove to actually transfer ownership and control to private hands. The quotient of resistance was naturally much greater.

Fourth, during the last four years, when what many christened as a "dream team" of reformers has been in place, Reforms have been at an almost complete standstill in almost all sectors save one, civil aviation. There is an obvious lesson in this stoppage, and I will come

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[1]Hence the name "*Dis*investment" for privatization in India.

to it. But one lemma can be noted at once: do not make-believe that because a set of rulers have been known to you, because they have studied at colleges and universities similar to the ones where you have studied, because they are from your social circle, because they have mouthed Reform in private conversations with you, they will actually press ahead with what is required. Look at what is actually happening, at what they are actually doing.

Fifth, and perhaps most important, the Reforms that have taken place in India have been in economic policy. Almost nothing has been done to improve administration or governance. Indeed, in these spheres, there has been an alarming deterioration over the last three decades. By now, incompetence, the abandonment of norms and shame, as well as the consequences of this abandonment and deterioration—corruption, terrorism, vast swathes of the country ceasing to heed the writ of the Indian State, the clogging of institutions—have fallen so low that they are bound to arrest, in my view they already *are* arresting, economic growth.

Once again, a lesson is obvious, and while I will return to it, one aspect should be noted at the outset. In the West, Reform has meant doing things in the economic sphere; and in this, it has meant getting the government out of the way, enabling markets to develop and function. In many spheres this is necessary, and, indeed, sufficient: I mentioned the instance of abolishing industrial and export/import licensing. But in many spheres, even in spheres in which we tend to think that private enterprise has done all the work on its own, that is not the complete story. For instance, Information Technology (IT) and IT-enabled services (ITES) have been one of India's conspicuous successes. And there is no doubt that the overwhelming credit for the success goes to private entrepreneurs and the young professionals. But they were greatly helped by the infrastructure that government created for them. Government established 39 IT parks: an entrepreneur could just "plug and play". Almost 80 per cent of IT and ITES exports came from firms located in these parks. In many other spheres, the need for a definite, active role of the State is even clearer. Indeed, in these spheres, the State is indispensable for the markets will just not do the job on their own.

A country like India has to contend with extreme privation, for instance. In a country in which three hundred *million* people are

living in extreme poverty, can a government absolve itself of responsibility and leave them to fend for themselves in a sea of impersonal "market forces"? Could it survive in a democracy, could the structure of the country itself survive? In what sense would it be a government if it did not attend to even the basic needs of persons in such extreme distress?

Apart from basic reasons for attending to extreme poverty, even tactically you cannot neglect it. Without making efforts to alleviate it, even if these efforts are only partly successful, you just cannot implement other reforms in a democracy: it will be ever so easy to enflame the poor by charging, "The Government cares only for the rich," get them out on the streets, and have them bring everything to a halt. But one cannot alleviate extreme privation through "zero interference". "Reduce deficit", "reduce deficit"—that was the standard prescription of so many visitors. But how will extreme poverty get reduced by just reducing the deficit? Indeed, were the government to focus on this objective alone, and wholly succeed, the poor may in the meantime become so upset that they choke the streets, bring populists to power, and thereby trigger an even larger deficit.

Hence, the focus on just reducing the State, on just clearing the way for markets is not enough. In the circumstances of a country like India, as much attention, in fact more has to focus on salvaging governance, on ensuring that the State and its institutions function efficiently.

There are three lemmas to this. First, we should not get taken in merely by rates of GDP growth, and the like. We must ascertain how the institutions of State are functioning. Second, we cannot put our faith in the pursuit of private interest alone. Third, we would be wrong to equate clearing the way for private creativity and entrepreneurship with "minimal government". The issue is not "less government" or "more government". But *effective* government. In India today, this requires reform in many spheres and at every level, from rethinking the Constitutional and electoral systems under which we function down to improving the way the *thana*, the local police station functions.

That is the basic lesson. It is one that has been fatally neglected in India. I flag it at the outset as, in the limited ambit of this lecture,

I shall not be able to deal with it. In what follows, I will focus on Reforms in the economic sphere alone.

The circumstances in which Reforms have to be carried out

Policies, for instance, subsidy regimes; arrangements, for instance, licensing systems; enterprises, for instance, the fact that a large number of them are under governmental ownership, have consequences that extend beyond the immediate ones: discourse, politics and ultimately power, to block things even more than to get things done, congeal around them. The ones who are influential at a particular juncture are the beneficiaries of things as they are. They are liable to be dislocated by change. For this reason, among others, Reform is unlikely to come about from within a system. To cite an instance, a major problem in India today is that a large number of persons with criminal backgrounds have become members of legislatures. It should be the easiest thing in the world to amend the law so that such persons do not qualify to stand for elections. Now, see why this does not happen. One of the basic laws that govern elections in India is the Representation of the People Act, 1951. Section 8 of this Act sets out conditions that will disqualify legislators from being members of a legislature. Sub-section 3 of section 8 of the Act lists a number of crimes and provides that if a person is convicted for any of them, he shall be disqualified for six years from the date of his conviction, and, if he is imprisoned, for a further period of six years after his release. The deterrent as well as the actual effect has been totally undermined by the self-serving text of sub-section 4. This sub-section provides that, "Notwithstanding anything [in the earlier sub-sections] a disqualification shall *not*, in the case of a person who on the date of conviction is a member of Parliament or the legislature of a state, *take effect until three months have elapsed from that date or, if within that period an appeal or application for revision is brought in respect of the conviction or the sentence, until that appeal or application is disposed of by the court."*

Which fool will fail to file an appeal in three months? And, what will his incentive be, once he has filed an appeal? To go on getting the hearings adjourned, and elongated, and derailed till his term comes to its natural end! This loophole is so large that no one can miss seeing it, and being embarrassed by it. Yet, it cannot be plugged. And

that for a simple reason: a large number of those who must vote to plug it are the very ones who will be out of legislatures the moment they vote the change. Exactly the same condition comes in the way of initiating economic reforms. Governmental enterprises are inefficient. They have to be privatized. The decision to do so has to be taken by the Cabinet. But the Cabinet consists of ministers, for each of whom these enterprises are part of his current empire . . .

That difficulty—that the decision to change vests in the hands of persons who would have the most to lose were the change to come about—is generic. It is compounded by a string of related features that characterize Indian public life today, features that place a veto in the hands of smaller and smaller groups.

As politicians have had less and less to commend themselves, they have stoked narrower and narrower identities. As a result, the electorate is splintered into tiny fragments. Ninety-nine per cent of the members of the Lok Sabha, the Indian equivalent of the House of Commons, have been elected by a minority of those entitled to vote; 92 per cent have been elected by less than 40 per cent of electors; 58 per cent by less than 30 per cent. Seventeen per cent have found their way in by securing votes of less than 20 per cent of electors. There are members today who have got in even though they received the votes of just 11-12 per cent of electors in their constituencies. The condition in legislatures of our states—and many of our states are larger than most countries of Europe—is much worse. With the electorate splintered to such an extent, a politician has the maximum incentive to frighten, cajole, mislead a tiny fragment of the people, and thus get into the House. In turn, he is beholden to smaller and smaller numbers: as a consequence, the number whom a reform will dislocate has to be smaller and smaller for their representative to feel compelled to block it.

A splintered electorate has resulted in splintered legislatures: today, the Lok Sabha has *thirty-nine* political parties! Most parties are gangs or bands around individuals and families. While trying to see a reform through, persuading the "broad masses" will not get you very far: you must, in addition, in fact even before attempting to reach out to those masses, cajole, humour, persuade the controllers of these parties. But each of these chieftains feels compelled from time to time to demonstrate to his flock how powerful he is: in a typical case, three years ago, the Central Government decided to disinvest some

of its equity in the Neyveli Lignite Corporation; the chieftain in Tamil Nadu, ministers from whose party had been present in the Cabinet meeting when the decision was taken, declared that this would not be allowed; the Cabinet had to meekly reverse the decision!

As governments are cobbled together from the legislatures, they are mere aggregations of splinters. The current coalition consists of *fourteen* political parties, and even that conglomeration was wholly inadequate for it to claim a majority in the lower House; and so it had to seek the help of Communists. Nor is it just that there are this many parties in a coalition. Each partner other than the largest one has one common interest: to weaken the core—the largest party around which the coalition is structured—of the coalition. For the weaker the core, the more power his faction, his party, the controller of that party comes to have.[1]

The results are inevitable. To begin with, complete unaccountability. A person like me who has spent much time exposing corruption is driven to giving up: corruption has grown to a scale that has been unimaginable even till a few years ago. The Prime Minister looks on helplessly. Ministers openly tell their officers that they are in office not because of the Prime Minister but because of the head of their party in the state from which they come. Moreover, as the Government is splintered, and can be brought down by any number of tiny clutches, policies and programmes have to be crafted to please smaller and smaller clusters of voters; reforms have to be put off lest they offend smaller and smaller numbers. Subsidies—for food, fertilizers, petroleum products, and the rest —eat away a large proportion of the budgets of Central and state governments. Reports upon reports of the Planning Commission, of the Comptroller and Auditor General have been showing for decades that these subsidies do not reach the targeted beneficiaries.[2] Yet, no government dare curtail them. To the contrary, populist policies and programmes have become the order of the day.

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[1]I have set out the detailed figures and their consequences in *The Parliamentary System: What we have made of it, What we can make of it,* ASA, Rupa, Delhi, 2007.

[2]Beginning with *Mid-Term Appraisal of The Ninth Five Year Plan,* Planning Commission, Government of India, New Delhi, October, 2000, in particular pp. 161-63, 483-86. Some of the later reports are summarized by me in *Where Will All This Take Us? Denial, Disunity, Disarray,* Rupa, *The Indian Express,* Delhi, 2008, in particular pp. 520-44.

Some years ago, the Government used to organize "loan *melas*"—"loan fairs", in which loans would be distributed at public meetings without any verification at all of the creditworthiness of people who had flocked to rake them away. But that was years ago. This year, the penultimate year before elections, the Government has waived off loans to the entire agricultural sector altogether; and this in the face of stern recommendations by the committees it had itself set up that waiving loans in general is not the way to help farmers in distress. But even that does not give a measure of the consequences that the splintering of the electorate and governments is extracting. Who would have thought that a Government headed by this "dream team" of "reformers" would direct ministries to make allocations taking religion into account? That it would direct banks to advance loans by taking religion into account? And yet that is precisely what has been done, and care has been taken to plant stories in the media to let people know that this has been done as a result of a directive from the Office of the Prime Minister himself!

The third debility is what Professor S.E. Finer had called "adversarial politics".[1] In India, there is a consensus in practice so that whenever a group is in office, wherever it is in office, it attempts to do the same sorts of things. But when it is in opposition, where it is in opposition, it strains to block the same measures. We have the Communists in West Bengal garnering credit for implementing reforms in the state that they are blocking at the Centre. In a typical instance, challenged to come up with the Government's thinking about reforms that should be made in our archaic labour laws, I began enumerating the changes that should be made; the Congress party MPs repeatedly heckled me, till I disclosed that I was only reading out the Industrial Policy Resolution that had been issued by their own Government in the state of Maharashtra! Similarly, two successive Finance Ministers of our Government worked hard to enact the Value Added Tax; as this would have consequences for shares of states in revenues, the negotiations were tortuous and prolonged. By the time the proposal was ready to be put into effect, the Government had changed. The Congress-led coalition was in power. The BJP-led

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[1]See, *Adversary Politics and Electoral Reform*, S.E. Finer (ed.), Anthony Wigram, London, 1975. See also, H.W.R. Wade, *Constitutional Fundamentals*, The Hamlyn Lectures, Thirty-second series, Stevens, London, 1980.

coalition was in Opposition. The former implemented the exact same proposal. The BJP-ruled states were directed by the central leadership to oppose it, and not implement it in their states! On insurance and pension law reform the position has been the reverse. The BJP-led Government had advanced proposals for reform. In the case of the pension system—a system that faces a forseeable crunch—that Government had introduced a Bill to make the required changes in the law. In the first four years, the BJP was willing to help the present Government enact the changes. The Manmohan Singh Government refused to accept help from a source it was proclaiming to be evil. Now, given the wholly immoral manner in which the Confidence Vote was secured, rather votes were purchased, the Government wants help to enact these reforms. But no one will offer it.

Disabling though it is, even the splintering is a minor part of the problem. Of much greater consequence is the nature of the political class today. A shameful number of our legislators have criminal records and backgrounds. Four members of the present Cabinet are undergoing trials for corruption and murder: one of them had to go straight from his ministerial office to jail upon being convicted of murder; a second time round, he absconded—a minister of the central Government of India disappeared, and our Government, with all the police and intelligence agencies at its command, said it could not trace him. This went on for two weeks—till the man obliged and "surrendered" in his hometown at the head of an enormous procession. He has since become the Chief Minister of one of the richest states of India, Jharkhand . . . The Communists had been propping up the Government of Manmohan Singh. They withdrew support. Manmohan Singh had to establish that he still had the support of the majority: it isn't just that votes were purchased, and that there were enough members of Parliament who were available for trading purposes; four MPs came to Parliament straight from jail to vote for the Government—they came from jail as they are serving sentences for murder . . . You will infer the general level of the political class from the fact that none of these things surprises anyone in India now. That is what the people know politicians to be.

You would not expect Reforms to be among the priorities of such a class. And, unfortunately, the knowledge of the average legislator

about what needs to be done to, say, enable India to compete with China, is little better.

The consequences are at once manifest. First, as we have "the Parliamentary System", the Executive is selected from among legislators. As a result, in a Cabinet of sixty-odd members, you would have just about six or seven ministers to whom you would give jobs in any organization you controlled. Second, while, as I will suggest in a moment, what will happen to a reform depends a great deal on the Prime Minister, the fact is that no Prime Minister can afford to wholly disregard the clamour of the general political class: it can overturn his Government inside Parliament; it can choke the streets outside.

Reforms are also derailed by lack of knowledge of another kind. In a vast and varied country like India, among the subjects about which the political class knows as little as anyone else is how "the people" feel about an issue. But when politicians lose, they blame the steps that were being taken to change things, in a word, Reforms. The Vajpayee Government had but to lose in 2004, and persons within the Alliance began to blame Reforms. As Yashwant Sinha, among the major architects of several reforms, pointed out, that was nonsense, of course. How could it be that Reforms had secured a thumping victory for the Alliance in Punjab, and wiped it out in adjacent Haryana? That they worked for the Alliance in Chattisgarh, Madhya Pradesh and Rajasthan, and wiped it out in adjacent states of Uttar Pradesh and Jharkhand? How is it that in Gujarat one reformer was swept in to office and in Andhra another reformer was wiped out? That in Gujarat the Reforms worked for the Alliance and in neighbouring Maharashtra against it? That in Karnataka those Reforms enabled the BJP to secure the maximum number of seats ever, and the same Reforms caused a debacle in adjacent Andhra? Obviously, the explanation for the electoral outcomes must have lain elsewhere. For the politician, however, the thesis was enough: not just persons in the Alliance that had lost, most in the Alliance that had, to its surprise as much as to the surprise of others, won, were scared off Reforms.

An unexpected obstacle

Three of the other obstacles that reformers have to vault over deserve to be listed as observers would expect each of them to be an asset for, an ally of Reforms.

The first of these is the business class. In the normal course, we would expect it to be among the principal votaries for Reform: after all, entrepreneurs are the ones whom controls and the rest had shackled. But the class as a whole is still under the spell of the license-quota *raj*. The core competence of many a business house still is the ability to manipulate ministers and civil servants. They manipulate these functionaries for tweaking policies and decisions to secure an advantage for themselves, of course, but they exert even harder to ensure that rivals are kept down. I found again and again, both in steering reforms in the Telecom sector as well as while privatizing State-owned enterprises, that the strongest motivation was to ensure that a rival did not get ahead. The moment it seemed likely that company X may succeed in its bid to acquire an enterprise, a vicious campaign would be mounted against it in Parliament, and in the media—with forged letters, fabricated allegations, the works.

Just as our leaders were for "Socialism *for the masses*", many of our entrepreneurs are for "Liberalization *in all sectors except mine*". You and I may be impatient to privatize an inefficient government-owned enterprise, seeing what it could do in better hands. But many an entrepreneur will go by the enormous convenience of having an inefficient government-owned enterprise in his sector: he can earn easy rent.

Ever so often, the attitude is the one that a passenger has towards one of our over-crowded rail compartments. When the passenger is out on the platform, he adopts every stratagem, he tries to push through every opening to get in. Once he is in, he uses every device to keep others out. Thus, to take an instance, the four dominant English-language newspapers, which have often scolded governments for not opening up the economy faster, are the very ones that have consistently blocked permission to foreign papers to print editions in India. "National interest will be jeopardized," they say. These are the very papers that have made nationalism a dirty word in India. These are the very papers that, day in and day out, are full of features and news stories from the very papers and news agencies whose entry they thwart. Similarly, the ones who block one of the reforms most urgently needed in India today—liberating higher and technical education from controls and restrictions—are

the very ones who have set up teaching shops: shops that have abysmal standards of instruction, but which, in the absence of better institutions, are able to fleece students of extortionate sums.

One well-known problem in executing Reforms is that those who are liable to benefit from them are diffuse and scattered, and the benefits that are liable to accrue to them lie in the indefinite future; on the other hand, the dislocations that Reforms are liable to cause are here and now; the ones Reforms are liable to dislocate are concentrated in industries, in tight geographical areas; they are liable to be organized. The problem is compounded in India by the fact that each of the major labour unions is linked to some political party or the other, and these parties are always on the hunt for issues by which they may stoke protests and the like. Reforms, therefore, require a lobby—a lobby for excellence, a lobby for specific changes, a lobby for Reforms in general.

This lobby can only consist of those who are building a new India—entrepreneurs and the middle class. The latter is not organized as a whole. Entrepreneurs do have associations and federations: but over the years, instead of aspiring to be an alternative government, they have become event managers for whoever happens to be occupying offices of State at the moment.

Moreover, the frame of reference for most of our businessmen is not the system but their own, immediate interest. Fear is one of the factors: for our politicians and civil servants do not hesitate to use investigating agencies and enforcement bodies as private troopers, to fix persons who do not do their bidding. But temptation is the greater explanation. Most of our businessmen would rather cut a private deal with the concerned minister or civil servant than work to change the system that is hobbling all of them together. Indeed, most of them would not think twice of the harm they may inflict on institutions and mores by the deals they cut.

Consider corruption. It is not a scandal. It is cancer. It perverts policy. It robs the best ideas of legitimacy. We were not able to reform labour laws for the country as a whole. Nor were we able to immediately upgrade infrastructure in the country as a whole. The obvious solution was to earmark some areas as Special Economic Zones, and execute the changes in them. By the time the proposal was to be put into effect, the Government changed. But in the

ensuing months, the whole exercise was converted into a real estate speculation racket. Another good idea had been given a bad name. More than undermining specific policies and proposals, corruption drains the State of legitimacy. Now, the primary responsibility for corruption lies with the political class. But, we must also bear in mind that no bribe has been received before it has been given. But few businessmen will spare a thought for the meta-effects of the bribes they give. As Reforms were brought to a complete halt during the last four years, and I remonstrated with our industrialists, "Why aren't you speaking up?", one of them said, "Sir, who cares for Reforms? What is there to prevent us from doing what we want?" When another person standing along with us mentioned the amount of money that was being pocketed, this very person said, "What is wrong? We are making tons of it. If they want some of it, just throw some *chanda* [alms]. What is the problem?" That it is cancer, that it will eat up, that it *is* eating up the State—that is hardly anybody's concern.

Another unexpected obstacle

In few countries is speech as free as it is in India. Moreover, the media is peopled largely by the young. We would, therefore, expect them to be natural advocates of Reform. Alas! Several characteristics of the media propel it to be an obstacle.

To start with, discourse seldom goes beyond the slogan. "Capitalism versus Socialism," "Right versus Left"—every proposal is put in one box or the other, and disposed of accordingly. This tendency is compounded these days by sound-byte journalism: "Sir, are you for the privatization of BALCO? Or against it? Sir, in brief." Policy options are thus reduced to "yes" or "no". All too often, a proposal is smeared by association: This proposal is another *reform;* Reforms are Globalization; Globalization is immizerization of the people . . . This is yet another proposal in the Government's programme of Privatization; Stiglitz, the Nobel Prize winning economist, has said, that Privatization has been accompanied by corruption . . .

At the best, we get "balanced journalism": "Minister X says privatizing BALCO will make the company more competitive, and thus secure jobs . . . Mr. Y, on the other hand, is convinced that doing

so will lead to a loss of jobs . . ." And the fact is that an argument is always at hand for not changing. In the rare instance in which a governmental enterprise was making profits, the Opposition would shout, "It is doing well. Why are you bent on privatizing it?" That it will make even greater profit, contribute even more to taxes, that even more jobs would be created if it were to function more efficiently, no one wanted to consider. When, as was usually the case, the enterprise was making a loss, the argument would be the opposite: "But if you try to sell it while it is in the red, you won't get its full value. Why not turn it around first, and then invite bids?" That half a dozen attempts had already been made, and several hundred crores had already been poured in to turn it around, no one was prepared to consider. Both points of view covered, the journalist moves to the next "story". Everything comes to have two sides. At the least, national resolve is dissipated: people are dissuaded in advance from putting up with any dislocation for the change.

The difficulty is compounded by what has come to be the very nature of "news". The media will be full of stories of inefficiencies of the way things are. But the moment you change them, journalists will rush to the person opposing the changes, to the workers who have opted for the Retirement package, to allies of the Government who are opposing the reform.

By now an even greater problem has arisen: even sound-byte journalism seems old-fashioned now. Superciliousness has become the reigning ideology of many newspapers, and TV channels. "Life-style journalism"—that is the new pursuit. But in a democracy, the people have to be informed. That is especially so in regard to measures that will cause dislocation, that will require them to change their ways. Informing people requires that details be presented to them again and again, till they sink into them, and uproot settled notions. But ever so many papers and TV channels today regard themselves as being above such "academic" stuff.

A Janus

One of the advantages today is that, while Delhi has become more or less paralysed, the focus has shifted to states. Reforms can be pursued at that level. And when something gets done in one state, there is definite pressure on others to follow suit. That is the

advantage. But the other side to the matter is that most states are in the same condition as the Centre. The result is that while the Centre has been more than willing, for instance, to devolve decisions about and resources connected with several schemes to the states, the latter have been loath to take them on. As a consequence, proposals to decentralize grain procurement; to reform agricultural marketing laws so as to help farmers; to unbundle power generation and distribution; to execute power projects expeditiously; to reform the public distribution system; to consolidate and transfer Centrally Sponsored Schemes have got nowhere.

It is a fashion today to say that Reforms should be "inclusive". But, in our Constitution, each of the sectors that would ensure immediate benefits to the rural areas, to the poor are in the states' or the concurrent list. These sectors include Agriculture; Irrigation; Health; Education; Rural infrastructure, in particular rural roads; Drinking water; Electricity; Housing. When you implement Reforms but there is no improvement in these, the people are easily led to believe, "They are only worried about the industrialists." The Left as well as the activists get the ammunition to shout, "Reforms are elitist."

There is a problem of another sort. One of the principal steps that can be taken today to push Reforms is to reshape allocations among states so as to hugely reward the ones that carry through the changes that the country needs. The problem is that the Centre has become weak *vis a vis* the states, not because of any changes in laws or the formal distribution of powers under the Constitution but because the Government at the Centre is a coalition and the controllers of the constituent parties are regional satraps. The current formulae by which resources are allocated between states—the decades-old Gadgil and Mukherjee formulae, for instance—allocate the overwhelming proportion of funds by population, relative poverty, etc. The result is that a state that has failed to implement family planning programmes, a state malgovernance by whose rulers has kept its per capita income below the national average—these are the states that are favoured by the existing formulae. They also happen to be the largest states, the ones that send the largest number of members to Parliament, for instance. Shifting allocations to performance thus becomes very difficult. In fact, that difficulty comes in the way of almost every scheme. A reformist government at

the Centre may make the best of schemes. Gujarat, because it is well governed, will rush and take advantage of them. States that are ill governed, say Jharkhand, will not. And the shout will go up, "These reforms/schemes are only for the well-to-do. They are only increasing inequalities."

Hence, while the fact that focus has shifted to the states indicates one way forward, it is a two-edged circumstance.

Consequences

First, Reforms, even when there is a pressing need for them, just don't get done. A succession of Finance Ministers have announced plans to reform the Public Distribution System; to bring down government equity in banks; to open up sectors like insurance more aggressively; to overhaul the pension system, but none has been able to make any headway on any of them.

Second, every step in getting a reform through is a real tussle. That you get to the next stage is often just a matter of chance. The insurance sector provides a ready example. The stated position of the Bharatiya Janata Party had been that Indian private companies shall be allowed into the sector, but Foreign Direct Investment would not be allowed. But when, Yashwant Sinha, the Finance Minister, started examining the issue, he found that the floor which had been prescribed for Indian firms—namely, that they must invest Rs. 100 crores or above—would mean that only a handful of Indian firms would qualify to enter insurance. The stipulation would, therefore carve the sector into oligopolies for a few. Moreover, he found that, such governmental firms as were there in the insurance sector, were still offering a very limited range of insurance products while the world over insurance had become a very specialized universe: very many types of products were on offer elsewhere, many types were needed, but our nationalized firms had not developed them. He felt that we needed an injection of expertise for this purpose also. He came to the conclusion that some FDI will be necessary. A note was accordingly submitted to the Cabinet. It met with enormous opposition. It seemed that the proposal would fall through. The Prime Minister intervened: let us set up a Group of Ministers to examine the issue, he ruled. And he nominated the then External Affairs Minister, Jaswant Singh, to head it, a senior Minister who has

been a sturdy champion of Reforms. Furthermore, the Prime Minister named only those ministers to the Group who were in support of the proposal. The Group held only one meeting. It introduced two conditions: while companies will be allowed to repatriate dividends and profits, they will not be allowed to repatriate premia; secondly, the majority shareholding would remain with Indians.

A Group of their colleagues, a Group selected by the Prime Minister himself, having examined the issue, the proposal did not now encounter the kind of opposition within the Cabinet that it had in the first instance. The Cabinet approved it. A Bill to amend the Insurance Act was introduced in Parliament. Even at the Introduction stage, the Left opposed it vehemently. The Bill was referred to the Parliament's Standing Committee on Finance. By chance, that Committee at the time happened to have as its Chairman a Congressman who was himself in favour of the change. The Left members filed a stern dissenting note.

In spite of the efforts to block the Bill, the Government was able to get it through the lower House as it had a majority in the House—that is why it was the Government in the first place, after all. But it did not have the requisite numbers in the upper House. Accordingly, it needed the support of the main opposition party, the Congress. A series of meetings now commenced with the Congress. The Congress insisted that Foreign Direct Investment be limited to a maximum of 26 per cent. That limit was accordingly incorporated in the legislation. Second, the Congress insisted that no "financial engineering" be allowed as had happened in Telecom in which, while the formal limit had to be kept at 49, by pyramiding companies like SingTel had been able to acquire effectively a higher stake in Indian companies. To get the proposal through, the Congress had to be accommodated on both counts. Changes were introduced in the Government Bill as Government amendments. The Left called a General Strike all over the country. Eventually, the Bill was passed.

Two points are noteworthy. First, at that time, the issue became a matter of life and death for the Government as well as for several sections of the Opposition. *The changes that were made, and because of which a number of insurance companies, Indian and foreign, do a thriving business in the insurance sector, are not even an issue today.* In fact, many a person who so stoutly opposed the

proposals at the time, will not be able to say how many private and foreign companies operate in the sector today, what share of the business they transact. That is a very important lesson: once a reform is pushed through, even critics forget about it!

But the other lesson is equally important. Recall that the Congress insisted that no more than 26 per cent foreign equity be allowed in the sector. The FDI limit was accordingly pegged at this level. In the normal course, the Government changed. P. Chidambaram, the Finance Minister of the Congress-led Government since then, has wanted to raise the limit to 49 per cent. He has not been able to do so.

Although, I am listing the consequences of the impediments and not the lessons, I will anticipate the next section, and list another lesson as it springs from the insurance sector itself. Those days, wherever the Finance Minister or other ministers in charge of economic ministries went, they would be accosted, "Will the insurance sector be opened up?" It was as if nothing else that was being done—much of it in the face of comparable difficulties—mattered. I find that this sort of fixation is characteristic of many observers, in particular of many foreign lending agencies and financial analysts. But making one item a test case of the will of Government is misleading. Indeed, once it becomes known that this is the reform on which foreigners have zeroed in, those who want to embarrass the Government, target this very reform. Hence, *don't judge the Reform process just by one issue.*

But to get back to the consequences of the impediments. Even when a reform is proceeding, it is liable to take very long. Procedures take an enormous amount of time, and a reform can be killed in the by-lanes. The banking sector offers a typical example. During the socialist wave of Mrs Indira Gandhi, banks were nationalized. The law nationalizing them provided that government shall hold 51 per cent or more of their equity. To meet Basel II norms, the Government had to ensure that our nationalized banks enlarged their capital base. Stretched as it was, the Government was unable to provide the capital on its own. It had also come to the conclusion that government equity should be reduced and the banks taken towards greater autonomy. Accordingly, it had to allow the banks to go to the market. But over the years, government holding had already been brought down substantially. There wasn't much

headroom. Hence, the then Finance Minister Yashwant Sinha announced in the Budget of 2002 that Government equity would be brought down to 33 per cent. Knowing well the gale that he would have to contend with, he assured the Parliament that the public sector character of the banks would not be diluted, that it would be retained by law: the government would retain by law the power to appoint the Chairman as well as other Directors; it would retain the power to give directions, for example, directions making it obligatory for the banks to give prescribed proportions of their advances to priority sectors.

The Cabinet approved the proposed amendment to the legislation.

The Left opposed the Bill even at the Introduction stage. The Bill was sent to the relevant Standing Committee of Parliament. It never came back.

But even if the legislation comes back from committees like the relevant Standing Committee, it may come back with its teeth missing. The Fiscal Responsibility and Budget Management Act, 2003, illustrates the pattern. Deficits had become a major problem. Finance Ministers were unable on their own to ward off the demands of ministries and states. It was felt that they should tie their hands by law; that would give them a reason in law to stand firm. Hence, in his Budget of 1999, Yashwant Sinha mooted the idea of enacting a law that would prescribe ceilings to the deficits that the government could incur. Legislation was accordingly prepared providing that, *inter alia,* the revenue deficit would be reduced to below three per cent of the GDP by 2008-09.

For the law to be an effective instrument, it was necessary that all targets be part of the law, and not of Rules under the law. So that, if a government were being lax in adhering to the targets, it would have to come to Parliament and have the law amended. As usual, the Bill was sent to the Standing Committee. That Committee diluted this vital part of the Bill: targets were put under Rules. The Finance Minister had to accept the dilution, as the proposal could not be got through without the support of the major opposition party. The consequence was not long in coming. In the very first Budget, of 2004, that he presented on behalf of the new Government, Chidambaram postponed the target of bringing the Revenue Deficit down to three per cent of the GDP from five years to six years. Since then, even that

date has been pushed farther away. What is worse, huge, truly massive expenditures have come to be listed as off-budget liabilities. We see here a two-step attenuation. First, the Parliament and its Committee diluted the proposal. And then, as it is the Government that in effect controls Parliament—that is why, as we have noted earlier, it is the Government—the Government has had no difficulty in circumventing the reform.

But things do not end there. Even if the Parliament passes a reform proposal, even if the Government is, in fact, keen to implement it, other meteors may strike. When socialism was all the rage, every cobbler, to recall Joan Robinson's telling analogy, was sought to be penalized for being the only cobbler in the village. Every entrepreneur was looked upon as a potential, if not actual monopolist, and thus, by definition, an exploiter. Government had, therefore, armed itself with anti-monopoly legislation. A Monopolies and Restrictive Trade Practices (MRTP) Commission had been set up, and was one of the instruments through which governments drove industry into submission. Although Reforms were commenced in 1991, it was only in the Budget of 1999 that the Finance Minister announced that the MRTP Commission would be replaced by a Competition Commission, that the old anti-monopoly law would be replaced by a new law whose object would be to promote competition. A Committee of Experts was set up to draft the law, and flesh out the change. A note was prepared and submitted to the Cabinet. A Group of Ministers had to be set up to whet the proposal. At last the Cabinet approved the proposal. The intricate task now commenced, that of drafting the proposed Competition Law. The draft law was introduced in Parliament. Parliament referred it to a Standing Committee. Eventually, in January 2003, Parliament passed the law. The Competition Commission of India was established in October 2003. A Chairman and one member—both civil servants of long standing—were appointed in that very month.

This had hardly been done and writs were filed in the Chennai High Court and in the Supreme Court. The main ground taken was that the Commission was to be headed by a civil servant when the functions that it was to discharge were quasi-judicial in nature. Arguments went to and fro, for over one and a half years. The Supreme Court delivered its judgment in January 2005. It held, *inter alia*, that the Chairman should be a judge, not a civil servant. A Bill to

amend the law to do so was introduced in March 2006. It is still "under consideration" of Parliament.

No Chairman has been appointed. The solitary member busied himself holding workshops, participating in seminars. By now, he too has retired. Hence, as I type, there is no member, there is no Chairman. Moreover, several sections of the law—in particular, those dealing with carrying out investigations and with regulatory work—have not been notified at all; that is, even if the personnel to man the Commission were to be appointed tomorrow, these parts of the law would not be operational. In a word, Reforms were commenced in 1991. The proposal to replace the old, restrictive, negative law with a more liberal, forward-looking, positive law and to constitute a Commission was mooted in the 1999 Budget. A decade has gone by and we are still hobbled by MRTP Commission and law, a law passed in 1969, at the height of "socialism". *Thus, even when a reform has at last been passed by Parliament, meteors can strike it down.*

And then, of course, governments change. Parties which, often for no reason other than the fact that they were in Opposition had been shouting against the reform, are catapulted into office. They are constrained by their rhetoric to stop or reverse, at the least to hedge the reform with conditions—with conditions that in effect kill the reform. As a consequence, all too often, after a spurt, reforms get halted, even reversed. Even as many of the senior-most leaders of the then Opposition used to compliment me in private for the privatizations that the NDA Government was engineering, often telling me that I should just press ahead, disregarding what they were saying in public, that "You are the only one who can see this through", when they came to office, they had to hedge the programme with so many ifs and buts that privatization has been brought to a complete halt under this Government. Reforms in the telecom sector are what triggered the explosive growth of this sector in the last decade. Several of them have been undone. Some of the worst practices in regard to tendering, practices that had been cleaned out, have been reintroduced. The crucial reform, that of virtually abolishing licensing and replacing it by a universal license, has been nullified.

In several sectors, there has been actual reversal of the reforms that were instituted. A typical case is the reversion to the

Administered Price Mechanism in the petroleum sector. Prices of diesel, kerosene, cooking gas have become a political football. Changing even the price of aviation fuel and petrol—commodities that can hardly be said to be items that the masses use—becomes a major political exercise. Accordingly, Yashwant Sinha and Jaswant Singh, two who served as Finance Ministers in the previous Government, strove hard to move the Government away from the Administered Price Mechanism—within a band, oil companies were to be free to fix prices of petroleum products according to market forces. The new Government, with its "dream team" of reformers, took to fixing the prices administratively again. The result was predictable: as oil prices shot up in 2006–2008, the Government stood paralysed; the oil companies were pushed to the wall; the Government had to compensate them; it took to issuing bonds to them. It kept these bonds, like several other items, outside the Budget. The Fiscal Deficit was pushed to a dangerous level. On the other side, the oil companies took the bonds to the banks to borrow for their immediate needs, and thereby sucked liquidity out of the system. This factor in turn contributed to the severe liquidity crunch that Indian industry faced in October, November 2008.

A few lessons

While our system of governance is said to be a "parliamentary" one, governance is Presidential. The Executive is the Executive precisely because it controls the Parliament. And, in a sense, the party or conglomeration in power has no alternative to the one it has chosen as Prime Minister. In the end, therefore, everything turns on the Prime Minister. In the first phase of Reforms, it is the then Prime Minister Mr Narasimha Rao, who backed reforms. When he got into difficulties—a Confidence Vote had come up in Parliament; some MPs were paid bribes to support the Government; the bribes were nailed; a case ensued—Reforms slowed down to a crawl: the Finance Minister was unchanged, other economic ministers were the same, but they could do little to push Reforms. During the Government of Mr Atal Behari Vajpayee, I witnessed first hand how everything in the end turned on what the Prime Minister would decide. Time and again, Mr Vajpayee had to, and did risk opposition, time and again he

staked the continuance of the Government on a proposal. Again and again, colleagues in the Cabinet would argue, "But this will cost us votes . . . It will alienate such and such section . . . People don't understand the reasons for our pressing ahead with this . . ." and he would respond, *"To unhe samjhaanaa chaahiye . . . Desh ke prati bhi hamara kuch daayitva hai"*—"Then, we should explain things to them . . . We have a duty towards the country also . . ." "But let us postpone this for two months," the critics would persist. "The elections in Gujarat are just round the corner . . . This will have a bad effect . . ." "Some election or the other is always round the corner . . ." Atalji would say, and ask, "Has someone even mentioned this proposal in his speeches at the rallies of the Opposition?"

Because of factors that we have seen earlier such as the splintering of the electorate and, therefore, of the Parliament, every proposal is liable to be opposed, on the streets, inside Parliament. The Prime Minister alone can decide how much he will risk to push the reform through. But even short of wholesale opposition outside government, his leadership is also indispensable because of the way the government is organized: each Ministry is a freestanding silo; each has a veto. While there was a separate Ministry for privatization, the enterprises that were taken up for privatization continued to remain under the jurisdiction of the administrative Ministry concerned. They were not just part of the Ministry, they were part of the empire of whoever happened to be the Minister at the moment. Almost invariably, he was loath to part with the enterprise. The proposal could move forward only because it was known that the Prime Minister supported the privatization programme, and that every step of the decision had been taken in his presence and with his approval.

Nor are ministers the only ones who are liable to drag their feet. Civil servants are just as comfortable with the way things are: the enterprises are as much a part of *their* empires as they are of the transient minister. And the civil servants are very eager instruments. Given the inclination of the minister, they are only too eager to show their usefulness by creating obstacles. In the privatization of hotels, each and every one of which was making losses, we were driven to a position where we had to wait upon a "no objection certificate"

from every creditor of each hotel, that, in effect, meant every chicken supplier![1] Hence, the importance, not just of the Prime Minister but also of the Prime Minister's Office. When the Prime Minister is respected or feared, a quiet word from his Principal Secretary to the Secretary of the line Ministry that he ensure that his minister does not create obstacles would see the proposal through. When, as is the case today, every other minister regards the Prime Minister as a lightweight, when his principal officers are also looked upon as merely decent persons, everyone wields his veto.

The point is that the Prime Minister must have clout, and, even more so, moral authority, *and he must be willing to use these.* What we have to look for in this regard is: "Does the leader have a *core?*" Are there things that he will do irrespective of the costs that you tell him are likely? Are there things that he will just not do whatever the advantages you show him are certain? Many so-called reformers, in fact, believe in nothing: they are not willing to stake anything for any proposal. And so they end up making speeches about the need for reforms, not steering reforms to consummation.

But a Prime Minister cannot take on a fight with one colleague after another every day. Hence the vital importance of two other drivers: the Finance Minister and the head of the particular Ministry in which the subject falls. In India, the Budget is a very restricted exercise. The Finance Minister prepares it, in consultation with the Prime Minister alone. In addition to government accounts, expenditure and tax proposals, it will list many general elements of economic policy and Reform. Thus, it is in the Budget of 1998 that Yashwant Sinha announced the Government's intention to bring down government equity to 26 per cent "in the generality of cases" save in railways, atomic energy and defence. This became the overall mandate for our Ministry.

Incidentally, that the exercise is so restrictive has another aspect also, an entirely avoidable aspect, but one that impinges on the course of Reforms. Once the person who has been the Finance Minister is shifted to another Ministry, as happens ever so often, he is completely cut out from the exercise. His experience, the reasons on

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[1] I have enumerated some of the loops through which we were made to pass in, *Where Will All This Take Us? Denial, Disunity, Disarray, op. cit.*, in particular Chapter 14.

account of which he had announced this reform rather than another, nothing is availed of at all. In theory, the civil servants could provide the continuity. But ever so often, they are busy humouring the new minister by helping him "differentiate his product".

Often, it is but right that those implementing Reforms dig in their heels. But equally often, the alternatives must not be posited as "either/or", but as "and also" or something in between. All too often, foreign advisors and observers also make the mistake of urging the "pure" alternative. "But you are the Minister for both, privatization and Telecom. Why are you not privatizing these behemoths under the Telecom Ministry itself, the BSNL and MTNL?" visitors would remonstrate. There was no Indian company or group that could have bid for them. But that was a subsidiary reason. I saw in the continuance of these enterprises in government hands an opportunity. These two large corporations had been held back over the years. That had certainly worked to the advantage of the private players. With competition at bay, the private players were charging extortionate rates for their calls—in effect, Rs. 28 to 30 per call: Rs. 14 to 15 to the person making the call and an equivalent amount to the person receiving it.

Here was an opportunity for a two-pronged lunge. On the one hand, I gave the governmental units an absolutely free hand and worked to get concessions and facilities for them that would enable them to compete effectively in the market. And I encouraged them to beat the hell out of their private competitors. The BSNL and MTNL expanded their coverage with a vengeance. They lowered call rates every few months. This, and of course the intensified competition among themselves that had resulted from other steps, goaded the private telecom operators to lower their rates. Today the call rates in India are the cheapest in the world. Our experience in managing our foreign account has been similar. My friend, Bimal Jalan, the former Governor of our Reserve Bank, correctly points out that fully fixed rates brought Southeast Asian countries to their knees; fully flexible rates brought Latin American countries to their knees. In India, the stratagem of securing "flexible but managed exchange rates" has stood the test of a decade of considerable turbulence. In a word, just as sometimes one must dig one's heels in and insist on a reform unalloyed, sometimes one should look for the intermediate solution.

Similarly, when you can't privatize State-owned enterprises, you can open up the sector to private participation. The State-owned enterprises will either have to shape up and match the competition or their customers will vote with their cheque books and go elsewhere. This strategy has stood us in good stead both in the banking and civil aviation sectors.

Foreign agencies—the IMF and the World Bank being good examples—are all too prone to urge standard, one-size-fits-all, "purist" reforms. In some countries, I take it on faith, the situation is so extreme, and the need for help from these agencies so desperate and evident that the political class can pass off a reform by saying that there is no alternative to accepting help from these agencies, and unfortunately these agencies are insisting on these measures. That is certainly not the situation in a country like India. Quite the contrary. One of the surest ways of minimizing the chances of a reform is to trace it back to a body like the IMF or to the "Washington Consensus". But even though these agencies play a much diminished role in setting the agenda for Reforms, other observers—rating agencies, international consulting firms, financial analysts, to say nothing of foreign journalists and academics—do have a substantial effect on determining which reforms are pursued at what pace. For this reason, I do feel that those urging Reforms, and laying down "roadmaps" must also be subjected to retrospective analysis and review. How do the IMF's conditionalities and the World Bank's changing nostrums look in retrospect? When the Southeast Asian crisis broke out, the advice that was forced upon the countries by economists and others was purist: "We must let those who made bad decisions go under; that is the only way mistakes will be avoided in the future; the market is a learning mechanism." And now? How do the bailout plans of today look in the light of the nostrums that were pedaled to us? The same goes for rating agencies and their rankings. How come so little was ever reported by them about what was happening to the environment in China; about the breakdown of the education and health infrastructure in China's rural areas; about the "floating population" of 120 million; about product quality, and the practices and corruption that are now hitting consumers of Chinese products?

Similarly, notice what was being written about the miracle turn-around that Musharraf and Shaukat Aziz were said to have worked in

Pakistan, and how the economy is teetering on the verge just months after they demit office. As for financial analysts and foreign institutional investors, what with the way the bubble has exploded, we do not have to press the point about the reforms they were urging: "Why are you people still dragging your feet on full capital account convertibility? Why aren't you going faster on financial innovation? Look at what others are doing with derivatives . . ." In a word, some introspection, some modesty are in order among external observers and advisors also. Academics must record and document the advice that was insisted upon, and how things have turned out in practice. That may embarrass some reformers but it will help the cause of Reforms in the long run.

But to get back to Reforms and the mistakes we make at home. When a reform goes wrong, as will happen ever so often, we must be prepared to openly acknowledge that error, and immediately correct it. In India, as had happened elsewhere, when the Telecom sector was first opened up, the initial licensees bid too high. They ran into difficulties. The sector would have collapsed. In spite of the worst allegations, the operators who had taken on obligations they could not fulfill were relieved of the obligations, and the regime was changed to a revenue-sharing one. The private players survived, the sector became a hallmark of the new India.

Often, a mistake, even a wrong decision deliberately taken, for instance, to benefit a particular business house, can be put to work. There were a score of different types of Telecom licences depending on technology, type of service, location, user . . . One axis along which the licensees differed was whether they offered fixed line services or cellular services. A new category was brought in—through the backdoor, that is without going through the process that was mandatory for other operators. One of India's largest industrial houses was given permission to start a wireless service in a "limited loop". It was made out that this was not really a wireless service akin to what the cellular operators were providing, that what was being offered was just an extended cordless phone of the kind that consumers use inside their homes. Given the reputation of the industrial house as well as the very high stakes that were involved, the matter became a ferocious controversy.

Proponents of the new technology—in this case, Code Division Multiple Access, the CDMA—insisted that nothing wrong had been

done, that the mobility that was being offered was strictly "limited" to a very short distance from the fixed phone. Opponents argued the opposite, that the service was indistinguishable from the regular cellular service, that the permission that had been given was wholly illegal, and I should cancel it altogether. There was no doubt that the service was indistinguishable from a cellular service, and that the permission had been given by the backdoor, and so we made the industrial house pay what they would have paid had they been given a license in the normal case: this was a huge amount; plus a huge penalty for misusing the permission which had been given them. But I also saw an opportunity. I used the controversy to replace the score of different categories of licences with a universal license: by obtaining this at a low fee, any operator could provide any service to any user anywhere in the country using any technology.

The main thing, of course, is to see the principal structural reforms through. But one must not sit down helplessly if one cannot prosecute them. When we cannot proceed as a rhino, we must proceed as a swarm of bees; do a host of small things, and always in the name of Reforms. When, by a complex interplay of corporate maneuvers and ministerial opposition, we were prevented from privatizing two large petroleum distribution companies, we set about privatizing a series of small hotels. In his report on financial sector reforms, Raghuram Rajan has shown that just because the Government is not able to move on banks does not mean that it should sit down. He lists a series of small steps that can be taken. These will ensure that changes that are sorely needed will get done. They will keep up the momentum of Reforms. He shows that doing so marginal a thing as amending laws and regulations so that warehousing receipts can be used as collateral could result in $ 30 billion of credit being given to the agricultural sector. Similarly, large volumes of credit can be channeled to small and medium enterprises if the trade receivable claims they have on large firms are converted to electronic format, accepted by large firms, and sold as commercial paper. The point is to keep up the momentum, and to link each step to the overall design and message of Reforms.

Next, given the ease with which people can be brought out on the streets in India, given the general level of acquaintance with issues among our legislators, governments and ministers must explain,

explain, and explain yet again. Every opportunity to discuss the issues concerned with the reform at hand must be welcomed. During the course of four years, apart from answering questions at press conferences, I answered several hundred parliamentary questions. Parliament discussed privatization in full debates a dozen times: by comparison, it did not hold a single debate on the Five Year Plan, or the defence environment around the country. The last four debates had to be closed incomplete. Rules require that at least ten per cent of the members be present for a debate to proceed: that is just about 54 members are needed in the 540 member lower House; just about 25 in the 250 member upper House. Even that many were not present. That was great progress: for it meant at one level that we had succeeded in exhausting the members, they realized that we had answers for the criticisms they were liable to make. In a word, every opportunity must be seized to explain.

But, there are two other sides to this business of explaining. First, the ones to whom we want to provide the information must be willing to receive it. I well remember meetings of the BJP when it led the coalition that was in power. "Our constituents don't understand why governmental enterprises are being handed over to big industrial houses," our MPs said. It was decided that I should brief them separately. I was eager to do so. Meetings were scheduled. At the first meeting about 50 of the party's 220-odd MPs from the two Houses came. The meeting went on for over two hours. They said, we should hold another meeting as they wanted to understand the answers to other charges that the opposition parties were spreading among the people. About 20 MPs turned up for the second meeting. At the end of the meeting, in response to their urging, a third one was scheduled. Six MPs turned up . . . Second, while governments must explain, those to whom explanations have been given must be willing to go by reason and evidence. If, as is so often the case in India today, whoever is in Opposition takes it to be his function to block and oppose whatever it is that the government is proposing, no amount of explaining will suffice.

Even though it is generally true that our legislators are more or less indifferent to reason and evidence, my own experience was that reason and detailed documentation do help. At every turn, the critics would demand, "But why do you not first give a revival package to

this enterprise? Selling it is *not* the only alternative." In our Ministry, we made diligent efforts to gather data on how much had been given to each governmental enterprise to pull it back from bankruptcy and what the results had been of that exercise. This turned out to be a more difficult task than might be imagined: neither the Finance Ministry nor the administrative Ministries in whose charge the enterprises were had the data. But, once we were able to piece the figures together, once we could show that in the cases in question "revival packages" had been provided six, seven times, and the enterprises had gone from woeful to awful, the argument was not pursued. But there is the other side to this lesson too. Precisely because governments cannot stop themselves from continuing to do the wrong things, they do *not* keep a tab on results of such pseudo-reforms. To confine myself to the example of revival packages, I have had occasion to ask three successive Finance Ministers, "How much has been given to our governmental enterprises by way of revival packages? What was the expectation when the package was given? What has happened as a result of the package?" No data were forthcoming. The lesson is that whenever a reform is put in place, we must keep a meticulous account of what we hope to achieve through it. And at the very outset we must provide in the reform itself that information about the results that accrue from the change will be placed in the public domain at intervals—that too should be specified at the very outset.

But in our societies, specific reforms are not the only things that are opposed. Reforms as such are ever so stridently denounced. Liberalization-Reform-Globalization-Immizerization, these have been fused into one swear word. Accordingly, even more than establishing the case for individual proposals, we must garner facts to counter the general denunciation to which Reforms are subjected, that they have, in fact, led to the immizerization of the masses. Even in equable times, there is always a mindset, one that resists change. Management experts refer to it as the IRI, the Instant Rejection Instinct. This is compounded by fashionable progressiveism: the dogged determination among many in India, for instance, *not* to believe that the proportion of the population living below the poverty line has fallen. We have to counter this: with facts and figures, with scrupulously gathered, scrupulously truthful facts and figures.

In addition, we must beam the world to India. We must beam China to India. We must beam the best that has been accomplished in parts of India to the rest of India.

For reasons that have been listed earlier about meteors that can descend from quarters other than legislatures, ministers and the bureaucracy, we must engage the judges, in particular. Hardly any among them would have been inside a factory. Just as hardly any of them would have actually tackled a mob, to say nothing of having faced fire from a terrorist. They have just no experience of situations about which they have to hand down verdicts. We have to acquaint them with what modern technology requires; with what our country has to do to compete with the rest of the world. As sitting judges will not come to our seminars and workshops, we should engage them through their social circle, the retired judges and senior advocates.

All this must be done, of course. We must reason. We must adduce evidence. We must persuade. We must engage the judges, the trade unionists. But in the end, we must just do it. I well remember something that Nigel Lawson said when he came to India at our invitation. There is a consensus in practice, he said. You will never get a consensus in words. So, do not wait for a consensus to be acknowledged. Pursue the reform in the confidence that a consensus *will* congeal ten years from now around the new constellation that you would have helped bring about.

For that to happen, it is imperative that the person in charge must be a person of unquestionable integrity. At least in a country like India, there is no limit to slander that opponents may paste. All sorts of allegations will be hurled as the reform proceeds. Nor is it just a matter limited to opponents. All too often, people want to believe the worst; that exempts them from improving their own conduct. It is the job of the Prime Minister to place such persons in charge of Reforms that just no allegation will turn out to be true. Even that does not guarantee that no allegation will be hurled. It is, therefore, just as necessary that the person charged with advancing a reform should also be of a particular bent of mind: at the least, he must look upon facing up to smears as one of the ingredients of the job.

But his character and record are just the backdrop. Every step he takes in the furtherance of the reform must be completely transparent. When this has not been the case—recall the recent

controversies and violence over acquisition and transfer of land in West Bengal and other parts of India—a good idea has got a bad name. And not just that: the cause of Reforms as a whole has suffered.

In conclusion

The question naturally arises: "If Reforms have been so much a stop and go affair, if they have been at a standstill for four years, how is it that India is doing so well?" The answer is simple. Indian entrepreneurs and professionals have enormous potential. The Reforms that have been carried out have cleared some space. It is in this clearing that these two classes have been able to forge ahead. The limited reforms do not exhaust the potential. They just show how much more could have been achieved, how much more *can* be achieved if the momentum of Reforms is kept up on the one side—and thereby entrepreneurs and professionals get ever widening space to work their talent and skills—and governmental functioning are improved on the other.

Today, a moment's notice is not required to write out a list of reforms that are needed to carry India forward. But three things about the list are apparent from the foregoing.

First, the most urgent task today is to salvage general governance. Hence, no set of purely economic reforms will improve the lives of the people. No set of purely economic reforms will suffice even to sustain economic growth.

Second, for reforms even in the purely economic sphere to be carried through, the classes that are making the new India, the entrepreneurs and the middle class professionals, have to weld themselves into a team of advocates. For wider reforms in governance to get anywhere, these classes must step outside their specializations and devote at least a part of their creativity, energy and financial muscle to the public sphere.

Third, whether economic reforms will be resumed in the near future; whether general governance will get the attention it urgently requires will depend on the outcome of the elections that are due early next year. Will they yield a Parliament less splintered than the present one? What sort of a coalition will assume office? Will it command a larger majority in the Parliament than is the case now?

Within that coalition, will the core, that is the largest party around which the coalition is structured, be stronger or weaker? Who will be the Prime Minister? What sort of a team will he choose? What will he be prepared to stake to effect improvement?

Open questions . . .

7.

The Wages of Dereliction

"Extraordinary economic circumstances merit extraordinary measures," declares the Finance Minister in his new Budget, the last one of this Government. "Now is the time to take such measures." And then proceeds not to take them at all!

"But it is just an Interim Budget," apologists suddenly remember. "He has stuck to convention." I must confess that I was not in the least surprised at the readiness with which so many commentators, both from industry and from media, swallowed and regurgitated this rationalization.

Is there a *Constitutional* convention—to say nothing of any other kind—that this Government has let stand in the way of what it has wanted done? Is there an agency or office it has hesitated to use as an instrument? The Governor's office? The CBI? How come this sudden fidelity to the "convention" of Interim Budgets? And how come, given that fidelity, the "convention" has not prevented it from budgeting an additional expenditure of *Rs. One lakh forty thousand crore?* And just see what has happened since the Budget was presented: the share market plunged further down; everyone began grumbling, that the Government has not given the stimulus that was expected and that is absolutely necessary; as a consequence within a week of not including the stimulus package out of respect for convention, Pranab Mukherjee declares that such a package will be announced if it is needed. Presumably the convention won't come in the way as it did a week ago!

It is not convention that has kept the Government from taking the necessary measures. It is knowledge. Even this Government, which has all along refused to recognize how serious is the crisis in which

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Based on a speech delivered in the Rajya Sabha, February 2009.

its mismanagement has pushed the country's economy, has now been awakened—by job losses across the country, by plummeting production indices, by mounting defaults and the consequential pressure on banks—that the economy has been brought to an abyss. As a result, stern measures are now unavoidable. And for these, this non-Government hasn't got the gumption. That knowledge is the reason for its doing nothing, plus the fact, as we shall soon see, that its financial profligacy has left little headroom for the kind of fiscal measures that are required. Not any sudden devotion to convention.

The sentences which follow that business about taking extraordinary measures shows up another trait, that of using the international economic crisis to cover up the results of its own mismanagement. "Our Government decided to relax the Fiscal Responsibility and Budget Management (FRBM) targets, *in order to provide much needed demand boost to counter the situation created by the global financial meltdown.*"

Really? Is that the reason? Recall Budgets of the preceding two years. In his Budget speech for 2007-08, Chidambaram was all for the targets that had been fixed under the Fiscal Responsibility legislation. He told Parliament, "Thanks to the Fiscal Responsibility legislations, the Central Government and the State Governments have regained lost fiscal ground . . . So far as the Central Government is concerned, the fiscal consolidation is proceeding according to the FRBM Act. Based on the Revised Estimates, I am happy to report that the revenue deficit for the current year will be 2.0 per cent (against a BE of 2.1 per cent) and the fiscal deficit will be 3.7 per cent (against a BE of 3.8 per cent)."

In his Budget Speech for 2008-09, delivered in February 2008, Chidambaram declared that the Government was pushing back the date by which the fiscal targets under the FRBM legislation would be met. What reason did he give? The "international economic meltdown"? On the contrary, the Government had shut its eyes completely to what had commenced. It was insisting, "Our fundamentals are strong . . . The Indian economy is effectively decoupled"—refrains that were echoed by several in the media and industry. The reason that Chidambaram gave was entirely homegrown. "It is widely acknowledged that the fiscal position of the country has improved tremendously," he said to cheers from the

Treasury Benches. "I am happy to report that the revenue deficit for the current year will be 1.4 per cent (against a BE of 1.5 per cent) and the fiscal deficit will be 3.1 per cent (against a BE of 3.3 per cent). Further progress will be made in 2008–09 . . ."—I will come to this progress in a moment, and we shall see how the projected progress was based on cooked up figures. For the moment I am on the requirements of FRBM Act. "Honourable Members will note that not only will I achieve the target for fiscal deficit under the FRBM Act, I have also left myself some headroom. In the case of revenue deficit, I will meet the target of annual reduction of 0.5 per cent," Chidambaram said. "However, *because of the conscious shift in expenditure in favour of health, education and the social sector,* we may need one more year to eliminate the revenue deficit. In my view, this is an entirely acceptable deferment."

In a word, the deficit targets had already been set aside in the last Budget itself. And what was the reason that was given for doing so? "The conscious shift in expenditure in favour of health, education and the social sector." Anything to do with the "international economic meltdown"? And yet, this year's Interim Budget speech makes out (i) as if fulfillment of the FRBM legislation is being deferred only now, and that (ii) this is being done to counter the effects of the global economic meltdown!

A typical ruse, one to which we shall return. For the moment, let us assess the claims the Government makes this time round against the standard that Chidambaram and Manmohan Singh have themselves set repeatedly.

Outcomes, not allocations

As the Treasury Benches applauded his announcements of higher outlays in the 2005-06 Budget, Chidambaram said, "At the same time, I must caution that outlays do not necessarily mean outcomes. The people of the country are concerned with outcomes. The Prime Minister has repeatedly emphasized the need to improve the quality of implementation and enhance the efficiency and accountability of the delivery system."

To ensure this, Chidambaram said, "During the course of the year, together with the Planning Commission, we shall put in place a mechanism to measure the development outcomes of all major programmes. We shall also ensure that programmes and schemes are

not allowed to continue indefinitely from one Plan period to the next without an independent and in-depth evaluation."

Two years later, nothing had improved. Chidambaram again returned to the theme: in the 2007-08 Budget, he told Parliament, "There is no dearth of schemes, there is no dearth of funds. What needs to be done is to deliver the intended outcomes." Cheerleaders applauded as if, as the Minister had said this, the intended outcomes had already been delivered!

Manmohan Singh declared the resolve time and again. "The single biggest concern of our Government," he declared, is to ensure "tangible outcomes." We have laid "the architecture for inclusive growth," its "basic elements" are now fully in place, he told the Planning Commission members as they met for approving the 11th Plan. "This is a matter of satisfaction and indeed of pride. For the next few years, the emphasis must be on ensuring that these programmes deliver what they promise . . ."

Let us start, therefore, with the item in regard to which last year's Budget proclaimed, "Action Completed". The Prime Minister had announced a "special package" for making Mumbai into an International Financial Centre. For two years, Congressmen in Maharashtra went to town about this. In the document, *Implementation of Budget Announcements, 2007-2008,* that Chidambaram gave out with his Budget last year, as he said in his Foreword, "to promote transparency and accountability," for this item, Chidambaram declared, "Action Completed". As Mumbai was, and remains as far from or as near becoming an International Financial Centre as it has ever been, how had "action" been "completed"? The report of the Expert Committee on this subject has been released, he said. It has also been placed on the Ministry's website. Furthermore, a power-point presentation has been made to the Prime Minister. And so, "action" on the plan to make Mumbai an International Financial Centre has been "completed"!

He did not say that, of the Rs. 1000 crore that the Prime Minister had pledged for this purpose, till July 2007, *only Rs. 16 crore and 16 lakh* had been released. Since then, my colleague, Kirit Somaya's inquiries reveal, not one more paisa has been released. The item no longer figures in this year's Budget documents. And why should it? After all, action had already been completed in the preceding document!

We see exactly the same sequence in regard to the promise that was made in the aftermath of the devastating flood that engulfed Mumbai on 26 July 2005. Both Manmohan Singh and Sonia Gandhi announced with much fanfare a "special package" of *Rs. 1260 crore* to "rejuvenate" the Mithi River. Since then, the Maharashtra Government has been told that it must do what it can on its own; the Centre is not going to give a single paisa.

An even larger "special package" was announced to reconstruct the Dharavi slum. This too was trumpeted up and down Mumbai and at every conference on urban infrastructure. The slum is exactly as it was in 2004; not one single shed of the promised reconstruction and development has gone up. Seeing that absolutely nothing is forthcoming, the Maharashtra Government has stopped making even the usual announcements, "We shall start as soon as the plans are approved . . ." Like the Government, those who bid to execute the project just make excuses these days for not even commencing work.

Again, as part of its commitment to improve our crumbling urban infrastructure, the Government put it out that it will finance the Metro project of Mumbai as it has done, say, in Delhi. Work was commenced on this understanding. Since then, it has told the Maharashtra Government that it will not give a single paisa, that the Maharashtra Government must do what it can on its own by roping in private partners. As a result, the First Phase has already slowed down. Bids were invited for the Second Phase in November 2008. The final date had to be extended thrice. Not one bid has been received . . .

And this outcome is typical across a range of projects. The record of the Railways is much hyped because of the personal showmanship of Lalu Yadav. In fact, the Freight Corridor project, which was discussed during the visit of Mr Atal Behari Vajpayee to Japan several years ago, has become in Japan, as I learnt to my discomfiture two weeks ago, a symbol of the inability of India to move swiftly on projects. There was to be a Joint Venture for producing electric and diesel locomotives. The bid documents have been hurtling to and fro between offices for two and a half years . . .

Outcomes? Is that what the Prime Minister and Chidambaram said were important?

National Highways: The project completion rate, *The Indian Express* reports, fell from 81 per cent in 2004-05 to 56 per cent in 2007-08. It has fallen even lower since. The rate at which projects are being awarded under this flagship programme fell from 70 per cent in 2005-06 to an abysmal 17 per cent in 2007-08. The miracle is that, on the other side, throughout this period the National Highways Authority has been successfully spending almost the entire amount given to it! The solution to such delays has been typical: another Committee was set up to monitor implementation of infrastructure projects. It is headed by the Prime Minister himself. The net result is evident from another review, this one done by the Planning Commission: the National Highways Authority is now taking 20 months to award a contract as against the five months that have been specified.

Surely the global meltdown is not to blame for this stretching out. The causes are the talk of Government corridors. The UPA Government announced that the minimum tenure of an officer appointed as the Chairman of NHAI shall be two years. The current Chairman is the *fifth* Chairman in the last two years!

There have been other changes also; they tell the tale just as well. To ensure expeditious implementation, the NDA Government had decided that, while the Government shall decide the programme that is to be implemented, contracts will be awarded by the NHAI. To further ensure adequate scrutiny as well as expeditious decisions, the NHAI Board was elevated to Secretary-level officers. The UPA Government has changed this: no, it has decided, contracts shall be given out by the "Government", and not the NHAI.

The net result has been predictable. Sixty packages of highway stretches were offered recently for bids. For 43 of these, no bid at all was received. Of the 17 for which bids were received, in six there was only one bidder. As a result, none of these six contracts can now be finalized without the approval of the Cabinet. In each of the remaining 11, bidders have sought higher grants of up to 35 per cent higher than had been provided. Such is the credibility of the process by now.

Power: A week does not pass and we are reminded by some governmental declaration or the other—as if "load-shedding" were not enough of a reminder—of how we are lagging behind in power

generation. The Government's answer has been what Professor Galbraith had long ago identified as the forte of Indian planning: therapeutic targetry! There is a big gap? Announce an even bigger target! Accordingly, the 11th Plan posits a target of adding 90,700 megawatts. To keep the target from looking too obviously unrealistic, the figure that is usually mentioned is 78,700 megawatts; this is done by excluding the 12,000 megawatts that are supposed to be generated as captive capacity by users. Seven quarters of the 11th Plan have already gone. We have added 10,887 megawatts: again, you see the hand of the subterfugists: this figure is inflated to 13,687 megawatts by including 2800 megawatts that were in fact completed in the last year of the 10th Plan and were included in accounts of that year's achievements! At this rate, experts forecast that we shall add only 40,000 megawatts by the end of the 11th Plan: a study prepared for the Planning Commission itself has forecast that, the way things are going, the gap between demand and supply of power will be larger at the end of the 11th Plan than it was at its commencement. On top of all this, the Transmission and Distribution losses—the theft and dacoity losses rather than the transmission and distribution losses they are called—continue at 40 per cent.

Yet half-truths continue to be used to claim achievements. In its Common Minimum Programme, the UPA Government had pledged that it would provide electricity to all by 2009. And, if you read the glowing accounts of achievement under the Rajiv Gandhi Gramin Vidyutikaran Yojana, you would think that the country is well on its way to providing electricity to every household. The facts are to the contrary; indeed, they remind us how little we should believe governmental statements.

When this Government assumed office, the Planning Commission had estimated that at least 7.8 crore households had no electricity at all. It had put the figure of "unelectrified or de-electrified" villages at 2,35,000.

And now see how targets are achieved! By a sleight of words, the Rajiv Gandhi Gramin Vidyutikaran Yojana rewrote the target down: the objective was not to be to provide "electricity to all" by 2009; it was to be to provide *"access to electricity* to all". Second, 7.8 crore households that were without electricity and were to be provided electricity were replaced in documents by 2.43 crore Below Poverty Line (BPL) households in both electrified and unelectrified villages!

Next, the number of villages that were unelectrified or which had lapsed to a "de-electrified" state—someone should really give our planners some recognition for their linguistic contributions—was now estimated to be only 1,17,000.

Even so, as against the rewritten targets of providing electricity to 1,25,000 un- and de-electrified villages and 2.43 crore BPL households, the *Implementation of Budget Announcements, 2008-2009* document indicates that *only 54,000 of those villages and only 43 lakh BPL households* have been provided electricity connections. The *panchayats* have not certified these claims in full. And about what kind of power is actually being supplied, little need be said.

Drinking water: Another scheme named after Rajiv Gandhi, the Rajiv Gandhi Water Mission, presents the same sort of picture. The Comptroller and Auditor General (CAG) has put out a Performance Audit Report on it, in particular on the Accelerated Rural Water Supply Programme. It talks of the "alarming level of slippage". Between April 2000 and April 2007, the CAG records, about 1.54 lakh "fully covered" habitations have slipped back into a "partially covered" or a "not covered" status. Even these data are unreliable. Projects have been commenced and even "completed" at places and in a manner that makes them "unsustainable". While the programme requires that laboratories must be set up to test the quality of the water which is being supplied, the labs have not been set up. In instance after instance, where they have been set up, qualified persons have not been appointed. Where the persons have been appointed, the mandatory tests are not being carried out. Water being supplied is of such quality that, the CAG records, it "may pose a threat to public health".

All this in the name of Rajiv Gandhi. I can't understand why these sycophants are so determined to tarnish the names of their *kul devtas*.

Employment: The CAG's Performance Audit Report on the programme to implement the National Rural Employment Guarantee Act (NREGA) illustrates another feature. One aspect, of course, is that of the 3.81 crore rural households that registered under the scheme and requested work, only 22 lakh households—that is, *a mere six per cent*—got the 100 days of legally guaranteed employment. But I am on the other feature that comes through. The CAG drew the Ministry's attention to the flagrant violations of its own Guidelines, to the flagrant discrepancies in the data, to the flagrant malpractices that

came into view, to the blatant shortfalls in fulfilling targets. The Ministry's response has been typical, and is, therefore, most instructive.

Implementation is the responsibility of the states, the Ministry told the CAG! We have nothing to say in regard to these deviations!

In a word, when credit is to be claimed, as in the Budget and in the annual reports of the Rural Development Ministry, the rural employment programme is one of the great achievements of this Government, one of its "flagship programmes". When black holes come into view, why, that is the responsibility of the states!

"The NREGA is a central legislation," the CAG is compelled to remind the Government, "and the Ministry, as the nodal agency for NREGA, bears ultimate overall responsibility for coordinating and monitoring the implementation and administration of NREGA and ensuring that funds provided by GoI are economically, efficiently and effectively utilized by the implementing agencies."

And the Guidelines that have been so casually disregarded are the Guidelines that *you* have prescribed, the CAG told the Ministry. Suddenly, the Ministry had a new view about its Guidelines, the very Guidelines for formulating which the Ministry has been claiming so much credit: "We have tightened them so much that misuse is just impossible," I was told by a high-up in the Ministry. The Ministry told the CAG that its Guidelines have been "merely suggestive". The CAG pricks this evasion. The Guidelines had been drawn up and prescribed, the CAG reminds the Ministry, because the Ministry itself had come to the conclusion that adhering to them was necessary to ensure effective and efficient implementation of and ensuring the fulfilment of NREGA. If the Ministry has come to the opposite conclusion, namely, that they are being disregarded for good reason, "It is the Ministry's responsibility to ensure that adequate and effective alternative controls have been put in place for the same purpose."

Not a hair of the Ministry has turned as a result of any of this. Each time the question comes up, the Government points to the money it has spent, and flaunts the allocations as achievement. Contrast this with what Manmohan Singh and Chidambaram had declared, "Outcomes not allocations . . . Accountability . . . A mechanism to measure the outcome of all major programmes . . ."

Telecom: Reform after reform that had been instituted both to ensure rapid growth as well as to clean up the sector has been reversed, from inviting and processing tenders of BSNL and MTNL, to the introduction of a universal license, to allocation of spectrum, to methods of auctioning. Steps that were solemnly promised have been buried out of sight.

There had been grave misgivings over the total incidence of taxes and levies on the sector. There were also problems of the opposite sort, the persistent reports about manipulations in booking revenue liabilities on activities. Accordingly, in the 2007-08, Chidambaram announced that a Committee would be constituted to review the levies and related matters. Two Budgets have gone by. There is now not even a reference to that promised review and rationalization.

The Universal Service Obligation fund was constituted in April 2002 to partially finance extension of telecom services to rural areas. Each operator was to pay five per cent of its Adjusted Gross Revenue to this fund. The fund is non-lapsable, that is the unused balances remain in the fund. Even by March 2008, *Rs. 20,404 crore* had accumulated in the fund. Since then the fund has grown even larger. Out of it, merely Rs. 6370 crore have been spent for bridging the "rural-urban divide" about which everyone is so voluble. The actual, physical progress is much worse than this expenditure figure indicates. In one instance, while the obligation was to set up 7800 towers, less than 20 per cent have been installed. And not even a question is asked.

There has been severe criticism of this in the Parliament. The Government has adopted a creative remedy! It has just cooked up the accounts and, in the accounts presented to Parliament no less, just shown the balance in the fund as "nil"!! The CAG points out that it asked the Government to correct this mis-statement. As it records, in the new report, the Government has done nothing.

The scandalous things that happened when licenses were being given and spectrum allocated for 2G services—the way cut-off dates were changed, and that too with retrospective effect; the scuffles that took place at Sanchar Bhavan—have made headlines in the media. The Chief Vigilance Commissioner (CVC) has been compelled to seek explanations. Telecom Regulatory Authority (TRAI) has been compelled to record that its recommendations were not just

disregarded, they were misrepresented in a sworn affidavit by the Government in court.

Almost the only concerns of the Government have been 3G and Broadband Wireless Access Services. TRAI was asked for recommendations in April 2006. It furnished them in September 2006. The Government issued Guidelines in November 2007. Since then, Government has been lurching from one foot to the other, issuing amendments to the Guidelines, amendments to the 3G policy, its tilt coinciding with heavy persuasion by one side or its rival.

The same goes for a step that would intensify competition and trigger improvements in the quality of service, that of number portability. TRAI gave its recommendations on this in 2005. The Government took two years to announce its acceptance. But that was that. Nothing has been done on the matter. Existing operators have an easy time, as the user remains locked-in to each of them.

Similarly, to unchain Internet Telephony, TRAI submitted its recommendations in August 2008. The technology is in use the world over. It will spur competition among existing operators who will be pushed to improve service and match lower rates. The recommendations were widely hailed in India. The matter remains "under examination" of the Government! And two sections continue to reap a windfall—those who operate the "grey market" as the black market in telecom services is known, and Internet companies that operate from abroad.

Is all this just innocent laziness?

Public Distribution System: From its very first Budget, this Government has repeatedly stressed the urgent need to overhaul the Public Distribution System (PDS)—the poor and the lower middle class depend on it; leakages are phenomenal . . . At first Chidambaram declared that the Government would fly one sort of pilot, distributing food stamps rather than food. His way of dealing with the fact that nothing had been done was to declare in a subsequent Budget that the Government would fly another sort of pilot, this time distributing food with the aid of Smart Cards. In this, the final and sixth Budget of this Government, we are told that an allocation has been made for this pilot—Rs. 1.1 crore to Chandigarh, Rs. 25 crore to Haryana, and Rs. 1 crore to the National Infomatics

Centre (NIC) to see how the pilot will fare. And this allocation, the Budget documents tell us, was made only on 26 December 2008! In the meanwhile, the leakages continue unabated and unchecked. That pattern holds for the black hole of subsidies as a whole.

Subsidies: In his first Budget for this Government, that for 2004-05, Chidambaram reminded Parliament, "Seven years ago, I placed before Parliament the first paper on subsidies." They need to be sharply targeted, he said—an euphemism for saying that they were not reaching the intended beneficiaries. Hence, he took a decisive step: he announced another study of them!

Next year, in the Budget for 2005-06, Chidambaram reported the great progress he had made: the study had been placed in Parliament, he said. Subsidies are necessary, he said, "However, we must now take up the task of restructuring the subsidy regime," he told Parliament, adding immediately the caveat that would constitute the anticipatory alibi for nothing being done—" . . . we must now take up the task of restructuring the subsidy regime *in a cautious manner and after thorough discussion.*"

Sure enough, the alibi came in handy. In the Budget for 2007-08, Chidambaram was able to acknowledge, "The issue of subsidies is proving to be a divisive one, but," and this showed to those who had been expecting decisive steps from this "dream team" of reformers that he hadn't given up, "I would urge the Honourable Members that it is imperative that we make progress on this front if we are serious about targeting subsidies at the poor and the truly needy." But it wasn't that he, his Ministry and the Government had been doing nothing. "My Ministry has *held extensive discussions* with stakeholders on three major subsidies, namely, food, fertilizer and petroleum. We have also *sought the views of* the general public. *Working groups/committees have gone into the question* of fertilizer and petroleum subsidies . . . I would urge Members to help Government evolve a consensus on the issue of subsidies."

Manmohan Singh himself intoned platitudes to the same effect at meeting after meeting. Last year, Bibek Debroy recorded his having made declarations on the subject *twenty-two times*.[1]

The 2008-09 Budget did not mention the subject at all! During the year, the near-fatal consequence of not having done anything on the

[1] *The Indian Express*, 12 June, 2008.

matter became evident as oil and fertilizer prices shot up and the Government, having moved back to the Administered Price Mechanism, dithered and failed to pass the risen prices on to consumers. By the beginning of October 2008, the Chairman of the Government's own oil company was compelled to say in public that, if urgent steps were not taken within three weeks, the company would have no resources to import oil.

But in an oblique way one subsidy was, in fact, mentioned in one of the documents that accompanied the 2008-09 Budget. This is the subsidy on fertilizers. The Government had emphasized the need to distribute the fertilizer subsidy in some alternative way. In the 2007-08 Budget, the Government had expressed its firm resolve to take the decisive step as follows: "The fertilizer industry has agreed to work with the Department of Fertilizers *to conduct a study and find a solution.*" And what would happen once the study was completed? "Based on the report, Government intends to implement *a pilot programme in at least one district in each state* in 2007-08."

So, what happened? Reporting the progress that the Government had made in executing that decisive step, the document that Chidambaram submitted with his Budget for 2008-09, namely, *Implementation of Budget 2007-2008,* let it be known, "*The modalities* for providing an alternative method of delivering the fertilizer subsidy directly to the farmer *are being worked out. The* proposal was examined by a Group of Ministers and *the report is being finalized.*"

All that had happened was that under a new name and basis, the subsidy was increased by a fifth. This was called the nutrient-based subsidy regime. What now? The document that accompanies *this* year's Budget proposes another study! *Implementation of Budget 2008-09,* declares, "As regards nutrient based subsidy regime, in the light of unsustainable levels of subsidy, it is proposed to have a relook on various delivery mechanisms taking on board the experience of government subventions to the targeted population which would have been successfully introduced. Since this entails a wide review of various delivery mechanisms, it may be difficult to indicate firm time for implementation. Department of Fertilizers proposes to have alternative strategies firmed up within the current financial year so that decisions for implementation could be taken at least in the next financial year."

"A relook . . ."; "it may be difficult to indicate firm time for implementation . . ."; "so that decisions for implementation could be taken at least in the next financial year . . ." As pathetic as it is typical.

Compare this sequence with what the UPA Government had pledged in the Common Minimum Programme it put out more than four years ago: "All subsidies will be targeted sharply at the poor and the truly needy like small and marginal farmers, farm labour and the urban poor. A detailed roadmap for accomplishing this will be unveiled in Parliament within 90 days."

Some way to manage finances

Actually, the sentence preceding that pledge about subsidies and the roadmap had made another important commitment: "The UPA Government commits itself to eliminating the revenue deficit of the Centre by 2009, so as to release more resources for investments in social and physical infrastructure." And five years later, in the Budget for 2009-10, what are we being told? That the Government is *not* adhering to that pledge so as to make available more resources for investments in social and physical infrastructure!

The alarming levels to which deficits reached in the late 1980s contributed to the breakdown in 1991. As Mridul Sagar and Amit Kumar of Kotak Equities' research arm have recalled recently, between 1986 and 1991 the Gross Fiscal Deficit was on the average 7.7 per cent of GDP. For 2008–09, the Gross Fiscal Deficit of the Centre alone is 6.4 per cent of the GDP; once the off-budget items are included, it becomes 8.1 per cent; and when that of the states is included, it becomes over 10.7 per cent of the GDP.

Even the Revenue Deficit of the Centre alone is liable to exceed five per cent of the GDP. By now the Centre's Primary balance was to have been a surplus, amounting to 1.1 per cent of the GDP. In fact, the Primary *Deficit* is liable to exceed three per cent of the GDP.

Several points about these figures about this Government's deficits are to be borne in mind.

First, notice how very far the Government has departed from the limits that had been prescribed in the FRBM Act, limits that were acknowledged all round to be necessary both as prudence and to maintain our credibility for investors and creditors abroad. That the Gross Fiscal Deficit had climbed to an average of 7.7 per cent of the

GDP in the late 1980s had raised alarm all round. Accordingly, under FRBM legislation it was decided that this ratio must be brought down from 6.2 per cent in 2001-02 to three per cent in 2007-08; and that the Revenue Deficit must be eliminated by March 2008 and a healthy surplus must be built up in the following years. The Gross Fiscal Deficit/GDP ratio will be more than double the target; the Revenue account, instead of being a surplus will be in deficit, a deficit close to five per cent of GDP. Economists apart, the CAG has been compelled to make severe strictures on the gross irresponsibility that has resulted in these deficits, and charge the Government with heaping burdens on future generations.

Do you think that will make any difference to the "dream team"?

Second, the Government certainly cannot claim any surprise at deficits having climbed so high. Several commentators outside Parliament and persons like Jaswant Singh, Yashwant Sinha and I inside Parliament repeatedly showed how the Budgets, in particular the last Budget were grossly underfunded, and that the country would be saddled with the costs of such subterfuge. To no avail.

Third, the deficits have absolutely nothing to do with any planned Keynesian stimulus to the economy. They have arisen wholly from the profligate mismanagement of the preceding three years, in particular, of the last year, 2008-09. In turn, there were two aspects to this dereliction. To begin with, the items on which governmental funds were expended have left next to no capital assets in their wake. They were just populist heads. Furthermore, the resources that were needed to fulfill these populist commitments were grossly understated. They were understated deliberately and for a purpose: so that the Government could claim that it was adhering to its obligations under the FRBM Act. The subsidies on fertilizers and petroleum, the amounts that would be required for the debt waiver, the incidence of the Pay Commission—items that figured in the Budget itself, items that were well known—were just left out of account. It is on the basis of such concealments that the Government claimed, as Chidambaram did in his Budget speech of February 2008, "Honourable Members will note that not only will I achieve the target for fiscal deficit under the FRBM Act, I have also left for myself some headroom. In the case of revenue deficit, I will meet the target of annual reduction of 0.5 per cent . . ."

Far indeed from being a stimulus, the deficits have by now foreclosed options: they have left little room for the stimuli that are needed. The Prime Minister's own Economic Advisory Council says as much. "The pre-existing high levels of debt and fiscal stress also limit the available headroom for a counter-cyclical thrust of fiscal policy," it states in its *Review of the Economy, 2008-09*. "In the prevailing situation re-priortization of government expenditure and speedy implementation of already funded projects at the Central and state levels are critical for the fast revival of the economy." Any evidence of "re-priortization of government expenditure"? Any evidence of steps to ensure "speedy implementation of already funded projects"? In fact, the enormous quantum of borrowing that the fiscal profligacy of the last three years has made unavoidable for the coming year, estimated to be well over Rs. 3,60,000 crore, squeezes the options further. Not only will the Government have little money to fund ambitious infrastructure projects, this level of borrowing will leave that much less for borrowing by the private sector on whom the Government is depending more and more for financing as well as executing these projects. With overseas sources having dried up, large corporates are turning to our banks. And so the consequence will be not just that there will be less for infrastructure projects, the small and medium enterprises will find it that much more difficult to finance their operations. They would have been pre-empted at the banks by the large corporates.

Indeed, precious time was wasted all along: recall the endless discussions on whether some part of mounting foreign exchange reserves should be used for leveraging an infrastructure fund; recall the tardy, not to say stately pace at which schemes such as that to fund "viability gaps" of projects were handled; recall how nothing but nothing was done either to build up the much-talked about shelf of projects, nor to institute incentives for rapid execution of projects that had been approved.

Fourth, alarming as these deficit figures are, they are almost certainly underestimates even now, and doubly so. As has been pointed out, on the one hand the growth of nominal GDP is liable to be less than the Budget assumes, and, on the other, so are the revenue proceeds. Even that is not the end of the story. The deliberate understatement for 2008-09 and the deliberate

underestimation for the coming year continue. To cite just one instance, the *Business Standard* has nailed how the fertilizer subsidy has been understated.[1] The subsidy payable for 2008-09 is Rs. 1,02,000 crore. It has been shown to be Rs. 75,847crore. Wonder of wonders, for the coming year, it has been shown to fall to Rs. 50,000 crore! As the paper has pointed out, not only is some of the subsidy due this year liable to spill over into next year, even if prices of fertilizers fall, the fall is liable to be offset by the depreciation of the Rupee.

Fifth, such gross departures from what Parliament has mandated raise the question, "What exactly is Parliament approving when it approves the Budget?" For 2008-09, the Revised Estimate for the Gross Fiscal Deficit is *two and a half times* the Budget Estimate; that for the Revenue Deficit is nearly *four and a half times* the Budget Estimate. Net Borrowing by the Government is liable to be *two and a half times* the budgeted figure. Indeed, as has been pointed out by observers, it is Rs. 40,000 crore more than the borrowing figure that was announced just a week before the Budget. At 182%, 132%, 125%, 85%, the figures for subsidies, pensions, total revenue non-plan expenditure, defence expenditure respectively—to take just a few examples from among the bulkier heads—bear just no relation to what the Parliament approved.

Transparency: The CAG's report which was tabled in Parliament on 20 February 2009 documents at length what it calls "Opaqueness in Government Accounts." There are "significant deficiencies" in the accuracy, completeness and transparency of the Accounts, it states. Eight "important statements" which four years ago the Twelfth Finance Commission had said must be included in the Union Finance Accounts, are still not included. The inclusion has been "accepted in principle," the Government tells the CAG. "The process of consultation is on," it tells him. The actual inclusion "would be a time consuming exercise."

We get a glimpse of what is happening in the meanwhile. In 2007-08, the Centre transferred Rs. 51,260 crore directly to "autonomous bodies, societies and non-Governmental organizations" ostensibly for implementing Centrally Sponsored Schemes. What happened to these *fifty-one thousand two hundred*

[1]Editorial, *Business Standard*, 20 February 2009.

and sixty crore Rupees? "The aggregate amount of the unspent balances in the accounts of the implementing agencies kept outside Government accounts is not readily ascertainable," the CAG records.

Furthermore, CAG finds that *fifty per cent* of the total expenditure listed under 28 Major Heads of the Government Accounts, an amount of Rs. 20,273 crore has been lumped under a Minor Head, "Other Expenditure". "This indicates a high degree of opaqueness in the accounts," the CAG observes in characteristic understatement. Giving further examples, the CAG concludes, "This shows that the existing structure of the Government Accounts does not truly reflect the current activities of the Government in these Ministries/ Departments."

The CAG contrasts the original provisions that were approved by Parliament when Chidambaram presented the Budget for 2007-08 with the supplementary provisions that the Government had to present within a few months. The supplementary provisions were 143% of the original provisions in the case of the Civil Aviation Ministry; 1378% (yes, 1378%) in the case of the Department of Economic Affairs; 10,761% (yes, 10,761%) for Ministry of Labour and Employment; 718% for the Ministry of Petroleum and Natural Gas . . . Such large discrepancies are due to "unrealistic Budget assumptions," the CAG points out.

Is this accountability? Is it responsible budgeting? Look at the myth we live by: on the one hand, we follow the obsolete British convention that a cut of just a Rupee in any item in the Budget must cause the Government to resign, and, on the other, governments so casually disregard what Parliament bound them to do.

And yet, the Budget is but a symptom of the way economic policies have been managed in the last five years.

A symptom of general mismanagement

Reforms were left to rot at a standstill. The "dream team" insinuated that the Communists were not letting them do anything. The responsibility actually rests with that team itself. The team exemplifies a type: persons who believe in nothing. For commitment to a cause—say, Reforms—does not mean that one makes the occasional speech on it. Commitment is measured by what you are prepared to stake for that objective.

The stoppage of Reforms prepared the ground for the slowdown. And the exact repetition of what had been done in the mid-1980s sealed it. Prices started rising, in part because of shortages of specific commodities, in part because of erratic announcements and policies—recall how food stocks were allowed to run down to dangerous levels; recall the announcements and reversals of announcements on imports of wheat and other commodities. Prices rose. Instead of attending to the specific problems and shortages that were triggering the rise, the Government, exactly as had been done in the mid-1980s, wielded the axe of monetary policy: interest rates were raised, Cash Reserve Ratio was raised . . . These measures choked growth without reining prices in swiftly enough.

By early 2008, anyone who traveled to factories and industrial estates could see that the momentum was petering out. By March, a minister of the Government itself had acknowledged in answer to a question in Parliament that 25 lakh jobs had been lost in three sectors alone.

As the tsunami of the financial crisis rose, Chidambaram and Manmohan Singh, and sundry *chota-motas* of the Government stood firm, on denial. "Our fundamentals are strong," they declared. Had the fundamentals of the Southeast Asian economies collapsed? Had the fundamentals of Argentina, Brazil, Mexico collapsed when their economies went into a tailspin? Indeed, has anything happened to the fundamentals of the United States, Japan, European countries today? But "Our fundamentals are strong" it was.

Next, the country was fed—and, I am so sorry to say, leading economic papers broadcast this lullaby—"We are effectively decoupled." *Decoupled? Twenty per cent of the GDP,* which is what our exports are by now, is no inconsiderable figure. Remittances are over $ 45 billion. Even a fool could see that the slowdown in the Middle East, in the West would lower this figure. Similarly, IT earnings are close to $ 50 billion: how could they remain unaffected when some of the largest clients of our companies were literally collapsing? Even more than these interconnections, we are intertwined with developments elsewhere because of the over-riding determinant: *confidence.* That knows no boundaries. The way our markets would every day mimic what had begun to happen to Nikkei in the morning, and what had happened to the Dow overnight

was a daily reminder of this. But so were eruptions in the "real" economy: the fact that importers abroad were not honouring their letters of credit; the fact that they were not lifting goods that had reached their ports; the cancellation of orders . . . But "decoupled" it was.

And then, superciliousness, not to say piety was made policy. "Just casino capitalism," Manmohan Singh said as he returned from Japan. Vital months were lost.

Inflating the bubble

Such dereliction is in itself a crime against the country. But there has been more than dereliction: the Government actively fed the bubble as it swelled, and then decreed measures that accelerated the downswing.

To take just one instance, in Parliament and outside, my good friend, Bimal Jalan warned more than once that the soaring ascent for which the Government was taking credit was a bubble, that it just could not, and would not be sustained. With dividends having been exempted from taxes; with interest rate differentials having become what they had; with higher and higher institutional inflows chasing a small range of equities and the resulting sharp increases in stock values; with the appreciation of the Rupee, a person abroad could shift money to India, earn a 100 per cent return, and take his money out. It doesn't take rocket-science to see that this just cannot be sustained, Bimal warned repeatedly.

Others gave similar warnings. Chetan Ahya and Ridham Desai wrote a series of analytical reports in which they pointed out how the entire bubble had come to swell merely because of foreign inflows, and, in these, on inflows from the most fickle segment among foreign investors, the institutional investors. In emerging economies other than India, foreign direct investment is around 75 to 85 per cent of foreign inflows, they pointed out, and institutional portfolio inflows are around 25 to 15 per cent. In India's case, on the other hand, the proportions were running at just the opposite levels.

These inflows reached unprecedented levels: whereas in 2001-03, India received around $ 10 billion a year as foreign inflows; in 2007-08 it received $ 107 billion. *Sarkari* propagandists claimed this was testimony to the excellence of the Government's policies.

In fact, as Bimal and others were pointing out, it was just arbitrage money. These inflows were what fueled the easy credit cycle: in the last five years, credit creation grew at a rate double that of nominal GDP. The swing was bound to reverse.

But who would listen? Certainly not "internationally famous economists", certainly not "dream teamers".

By October 2008, it seemed that those in authority were active participants in the market: it really will be instructive to juxtapose their announcements with the gyrations of the market in the latter half of 2008. Absolutely inexplicable steps were decreed. As everyone was pulling his money *out*, as there was not even a remote chance that amounts would be brought *into* India, Participatory-notes were suddenly sanctioned again: this in the wake of the National Security Advisor having warned that terrorist money was coming into the stock market, that the strictest inquiries must be made about who is bringing in money lest our financial system is destabilized, lest funds brought in anonymously are utilized for financing anti-India operations. Not just that, even as other countries moved to stop short-selling, the Government allowed it to continue. Indeed, it went one better: even "naked short-selling"—a nefarious practice which cannot but sharply amplify the amplitude of market swings—was allowed to continue.

I well remember our meetings with leading figures from the market as well as leading industrialists. We studied their first-hand reports of what was happening all round the country, and tabulated a set of recommendations. The Government had no time for any dialogue. We released them in public. During one discussion in the Rajya Sabha, Yashwant Sinha drew attention to these recommendations. Chidambaram's response was typical: FICCI has given its 10 points, he said; CII has given its 8 points; BJP has its 12-point recommendations. All of them will be examined by the Government as and when necessary . . . What loftiness!

That is the attitude that has brought us here. Growth slowed down. Reforms that would ensure future growth, arrested. Infrastructure that future growth requires, at a crawl. Government finances out of synch. Too little being done too late to stimulate the economy.

The worst of it: the word of India's Government devalued.

8.

Environment: India's official position And what it may actually do

The official position that has been articulated on behalf of India at various international fora is built around the following four propositions:

- On a per capita basis, emissions from India that harm world climate—CO_2 and the rest—are much, much less than those from the developed countries.
- India *is* affecting perceptible, indeed substantial improvements—in area covered by forests (that is, in sequestering carbon), in energy efficiency (for instance, in energy-intensive industries like cement and steel), in improving the quality of air, etc.
- Several of the measures and protocols that are being suggested will curb India's growth rate, and, thereby, perpetuate India's poverty.
- And it is poverty which is the greatest pollution, it is also the greatest polluter: hence, India shall continue to strive to eliminate poverty and maximize growth. As they are the principal doers of harm, the developed countries must do their bit first before compelling countries like India into curbing their growth.

Even as the fragments of data are correct, the position, if sustained, will inflict grave harm on India in the coming twenty years—both in exacerbating problems—problems that it will be extremely expensive and difficult to remedy later—and in foreclosing the enormous opportunities that remedial measures taken now hold for India. There are several reasons for this.

Emerging Markets Forum, January and June 2009.

First, that others have problems, that others are exacerbating their problems and ours, is little consolation: the deterioration that has taken place in India's environment during the last 30 years because of things happening within India inflicts grave harm on Indians, here and now. Rivers like the Yamuna became rivulets; by now they have become toxic drains. The alarming increase in arsenic in North Bengal, the ailments that befall Indians because of polluted ponds, or because of smoke and fumes within hutments, from the woeful condition of sanitation, from the air in metropolitan cities getting affected because of the sharp increase in vehicular traffic—these have nothing to do with what the developed countries are doing, and are not going to abate by anything that the latter may undertake to do.

Second, neither the draft on environment nor the pattern of development which underlies it are sustainable:

- India's per capita energy consumption is one-tenth that of the OECD average, it is one-sixteenth of that in the United States; at even the optimistic forecasts for nuclear and hydro power projects, coal-fired power plants are expected to generate 60 per cent of India's electricity in 2030. What would be the effect on air-quality were India's pace and pattern of growth to take it anywhere near the per capita power consumption of the developed world?

- Only ten in a thousand Indians own a car; 700 of 1000 do so in the OECD countries. What would happen to availability of space were India to aspire to meet the transportation needs of a billion people through the private automobile? Indeed, in just the coming five years, what will be the order of delays, not just in the metropolitan cities but even in the smaller towns, as "the people's car" becomes available at Rs. 1 lakh a piece?

- Underground fires in India's coal belt—in particular, in the Dhanbad-Jharia landmass—constitute the highest incidence of such fires in the world. Apart from the danger such fires present; apart from the severe consequences they have for the health of miners and their families and of all who live in the area; apart from the general air-pollution which they intensify, do the fires not represent an avoidable and colossal loss of resources?

- Were India and China to aim at attaining the levels and pattern of consumption typical of the OECD countries today, what would be the draft on the world's resources? Would India be able to hold its own in the race that would ensue for resources? Look at the strain to which it is already being put in attempting to secure oil as against China.
- If things continue as they are, between now and 2050, close to *five hundred million* people will be added to our cities. Seeing what the condition is of our cities today; seeing what will be required to provide the infrastructure that just the existing urban population needs; given how much will be required to renew the proportion of existing infrastructure that would require replacement over the next thirty years; will we have the resources to provide the infrastructure that another five hundred million—that is, *half the total population of India today*—will require by that date? And there is another factor: as a recent report of the Emerging Markets Forum points out, by that time, if India grows at the rates of which it is capable, that is 7 to 9 per cent per year, our per capita income will be what those of Spain, etc. is today. As a result, the quality of urban services that the urban resident of 2050 would demand would be much, much better than the quality with which the resident of today puts up. Will we at all have the resources to provide the requisite infrastructure?

In a word, India must do its bit, both for itself, and also for the world: while the amounts of emissions and pollutants that it releases per capita are lower than those of the developed countries, the totals of these are large, and, were it to persist in acquiring consumption levels and adopting production processes of the developed world, they will become fatally large because of the size of its population. As Lester Brown has pointed out, the ecological footprint of the developed world is 32 times that of other countries. Were China and India to make the same draft on resources, it would be as if the population of the world had tripled; were all countries to do so, it will be as if the population of the world had increased to 72 billion. Moreover, while our per capita emissions are low today, as we continue to grow, and if we do so without changing our ways, our per capita emissions *will* become as unconscionably high as those of the

countries we criticize today. And if, on that consideration, we do not want to inflict the kind of damage on the earth and its eco-system as the developed countries of today are doing, the time to correct our course is *now*.

Third, it is far more expensive to remedy the environment after damaging it than it is to take preventive action. The former Soviet Union is a recent and vivid example of the costs that mindless "development" entails. The fate of an Aral Sea is also a reminder that a society must change course early; the longer its gestation period, the earlier must the remedy be instituted.

Fourth, far from arresting growth, steps to preserve and restore the environment present a great economic opportunity for India. The nearest opportunity is afforded by the two trillion dollar market in carbon trade under the Clean Development Mechanism. But this is the lesser opportunity. Each solution that India develops for its own problems will be something that it can either market or gift to other countries as they also face the same problems. Alternate fuels; microbes that break up pollutants; processes and equipment to desalinate sea water using solar and wind energy; an efficient and hygienic composting toilet; organic and bio-fertilizers, insecticides and pesticides rather than chemical ones; technologies to recycle waste and water. When a hybrid automobile is an opportunity for Toyota, why would it not be for an Indian lab or firm? Each of these alternatives would provide sustainable employment. Each would improve the lives of millions. And for many of them the very areas that are today "backward" have the greatest advantage: for organic farming, the "backward" states of Madhya Pradesh, Chattisgarh, Jharkhand, eastern U.P.—"backward" as they have lagged in using chemical fertilizers, insecticides and pesticides—have a head start as their soil does not have to be remedied to commence organic farming.

Fifth, it isn't that we just *have to* accommodate another five hundred million in our cities in the coming thirty years, and, therefore, that we just *have to* build the infrastructure that that level of urbanization will require. There *is* another way: instead of going on locating economic activity in urban conglomerates, and then expending resources in alleviating the condition in slums, why not strive to provide urban facilities in rural areas, and thereby stem migration in the first place?

Sixth, as much as other countries, India will be confronted with massive, perhaps insuperable problems if climate does change to the degree it certainly will if little is done to reverse course: the melting of Himalayan glaciers will, after a temporary burst of increased water supply, leave the entire North Indian plain in the grip of acute water famine; similarly, if China continues to denude eastern Tibet, the pattern of monsoons will be affected. Moreover, ecological deterioration in our neighbours will have direct repercussions for us. What happens if each country keeps putting off remedial action till the others begin to take it? To take just one instance, forty-six per cent of the population of Bangladesh lives within 50 miles of the coast. If, following India's lead and that of China, each country keeps putting off remedial steps till the others have taken them, and global warming proceeds apace, how will India cope with the inundation of scores of millions from Bangladesh? In a word, climate change in general, and ecological deterioration in our immediate neighbourhood will have immense effects on us. But how can we persuade others to act if we do not act ourselves? By example, not by hectoring; by answers, not by objections; by answers that we have worked in practice, and not by what Pandit Nehru once called "the permanently negative answer" can we persuade others to do what is in our interest as much as theirs. Our maxim must be the Mahatma's *mantra* that we like to see others quote: "Be the change you want to see in the world."

Seventh, successes have been registered everywhere, within India as much as in Europe and elsewhere. These have not curtailed growth: quite the contrary, they have saved the countries from the resources they would have had to expend to deal with the consequences of "growth". Within India itself, the swiftness with which land has regenerated itself the moment elementary steps have been taken to cordon it; the substantial increases that have ensued in the incomes and assets of the community once local water-bodies have been restored, are for all to see. Buildings—large office and research complexes—have been constructed, for instance, at the IIT, Kanpur, that consume 40 per cent less power than conventional buildings of that size. Considerable amelioration in pollutants discharged has been effected even in traditionally notorious polluters like the leather and paper and pulp industries. Similarly, individual corporate firms have shown how they can benefit society

as well as improve their bottom-lines simultaneously: for almost five years now, ITC has been storing and sequestering twice the amount of CO_2 than it emits; over the last seven years now, it has created rainwater harvesting capacity that is thrice the amount of water it consumes; and by now it recycles all its waste. Such examples abound. When these firms can execute these beneficent programmes and simultaneously improve their profitability, why can these solutions not be made a feature of the general pattern of the development of India over the next 20 years?

For all these reasons, and for sheer survival, India must take several steps to preserve and improve its environment, from the kitchen in the hut to its once-mighty rivers.

Things to be done

The first requisite is to stop striving for ever more accurate measurements, to stop being satisfied with ever better descriptions of the problem, both being almost the reflex actions of researchers and academics in India. Instead of getting yet another—even if it be a demonstrably more accurate—measurement of air pollution, India's scientific institutions would serve India and the world better by developing a better filter for the automobile exhaust. Few remain in doubt that the climate is changing, and that man-made actions are making an entirely avoidable contribution to that change. And there is Pascal's wager in any case: even if it is not deteriorating at the rate at which a host of studies show it is, the prudent thing to do is to rectify our ways now so that fifty years from now we do not have to alter our ways even more drastically.

The second imperative is enforcement. On environment as on so many other subjects, India has a plethora of laws and regulations. The problem is that they are not being enforced; instead, so many of them have been converted into "octroi posts", obstacles that are placed in the way only to be lifted after pockets have been filled.

The third set of steps that need to be taken are on the fiscal side. Ecologists estimate that the world spends $ 700 billion each year to *damage* the environment, in terms of harmful subsidies. India contributes its share, in terms of subsidies it gives to chemical fertilizers, petroleum products, coal and the like. They have already begun to impose a fiscal burden that cannot be sustained for long. But that is the minor consideration: the greater injury they inflict is that

they help congeal consumption and production patterns that injure the health of the people even as they make India more dependent on resources that will soon be exhausted. These subsidies should, therefore, be weeded out. On the other side, India has the opportunity to pioneer green taxation—to tax commodities and processes by their ecological footprint and by the quantum of non-renewable resources they use, and to go on reducing individual and corporate taxes as revenues from these green taxes flow in.

Again, given the Indian penchant for "paralysis by analysis", it will do well not to defer action till it alights upon the ideal rates of taxation of different commodities and processes. The level that will actually make the commodities and processes expensive enough to make consumers and producers actually switch to alternatives is what should be mandated.

In many spheres, technologies that can affect major savings are already at hand. The *Integrated Energy Policy* prepared by the Planning Commission estimates that India can generate negawatts—watts saved—up to 15 per cent of its electricity consumption just by better demand management. In the same way, to continue with the example cited earlier, major savings in energy consumption can be affected by more thoughtful design of buildings. Similarly, the least expensive way for fixing carbon still remains forestation. It is necessary, therefore, that these better practices be pursued through pricing, through enforcement, through introducing them in curricula: to continue the buildings example, for instance, through more thoughtful curricula in schools of architecture.

But it is just as evident that in many areas new technologies have to be developed and that, what with its large and grossly underutilized technological manpower, there is a great opportunity for India to develop these technologies. India will be well-advised to set up national research missions to develop items such as the following:

- A cheaper and more efficient photovoltaic cell;
- Cheaper and more efficient wind turbines;
- The entire range of technologies and construction techniques that would enable us to set up off-shore wind farms along our extensive coast;
- Technologies to harness tidal power;
- An efficient hydrogen fuel cell;

- Clean coal processes;
- Desalination of sea water using solar and wind energies that are available in virtually endless supply along India's long coastline;
- Fast breeder nuclear reactors;
- The thorium cycle for nuclear power.

Few steps would repay as handsomely as effort by the Government and industry to harness India's technological and engineering talent for affecting breakthroughs in products and processes such as these. The pioneering work that Japan's Ministry of International Trade, Industry and Economy did in bringing industrial firms, government laboratories, technological personnel together is the example that India should emulate.

We should be doing each of these things on our own. Yet the civil society, and that includes the media, as well as the international community can take steps that would induce a country like India to act faster than it is otherwise likely to do.

Measures that would induce India to take these steps

First, given the ease with which discourse can be derailed—"The demands to cap our emissions are a conspiracy to cap our growth"; given the weight of inertia, of just going on repeating our oft-stated position; given the comfort that intellectual laziness provides, we must multiply manifold the efforts to inform people of the *opportunity* that climate remediation presents for India. One aspect, of course, is that as a country that has a substantial reservoir of engineering and technical talent, as a country that has developed capacities in these fields, we are well positioned to develop solutions that we can adopt for our own benefit and also market to others the world over. But there is, in addition, an immediate financial windfall that we can gather. Today, even an alert reader of newspapers is unlikely to know that, once the United States also comes on board, the market in carbon trade will rise to almost two trillion dollars, and we can earn billions of this vast amount by adopting green practices. Few would know of the financing that is becoming available for adopting energy-saving technologies. Few would know the current moves to craft regimes that would allow green technologies to be transferred with greater ease. Once benefits such as these, benefits that are available here and now, get

better known, it would be that much more difficult to scare people away from the course corrections that we would be required to make in the wake of new international agreements.

Of course, the higher the price that is put on carbon emissions, the larger the funds that are made available for technology transfer, the larger the funds that are made available for adopting more energy efficient among existing technologies, the easier it will be to induce India and other countries to do right. Hence, every step taken towards raising the price of carbon, of increasing the funds available for technology transfers, for adoption of better technologies will accelerate the change we all want realized.

Next, it is imperative that the measures that are prescribed and the targets that are set are fair and transparent. Just as it is wrong for India to peg its negative stance on the fact that our per capita emissions are as yet low, it is just as unwarranted for others to use the rate at which emissions will increase to urge tough measures to India: with a low base, a given increase will register as a high rate. The fair way would be to use the *share that a country has in the increase of total emissions* and prescribe measures that it must adopt accordingly. Similarly, clubbing China and India, as is done often when presenting data on likely increases in emissions as a result of new coal-based power plants, is misleading: China is adding a multiple of megawatts of coal-based power generation every year of what India is doing. To club the two, pronounce them equally responsible, and thereby urge curtailments of the same magnitude can only provoke resistance.

Fairness includes transparency for, in addition to being fair, the measures must be seen to be fair. Non-proliferation provides a ready lesson. One of the reasons on account of which agreements such as NPT, CTBT, FMCT have not made the progress they might have is that there has not been in place a verification mechanism that is under international control. When verification is left to individual countries which at that time have the technical capacities to verify, things come to hang on their convenience. To cite just one instance, that the US agencies knew about A.Q. Khan's *bazaar* for years has by now been well documented. They shut their eyes to it; indeed, they squashed investigators among their own staff who unearthed the evidence and were insisting that it be acted upon. Therefore, for a regime of measures necessary for climate remediation to be

acceptable, the methods of prescribing the obligations of individual countries, and of assessing the extent to which the countries are adhering to them, must be under international control.

Fourth, while in the first instance obligations have to be prescribed country-wise, for concrete action plans to be drawn up, it is necessary that we disaggregate. After all, the extent to which the formal, organized industrial sector is contributing to the total emissions emanating from, say, India is very different from the extent to which the vast numbers engaged in the agricultural sector are contributing. Disaggregation will help twice over—it will help acquire the critical constituencies that are required to back the requisite measures, and it is necessary to devise actionable plans. We should, therefore, prescribe steps industry-wise, sector-wise. Doing so will also show that the entire programme is manageable in that drastic reorientation is required of a few, not from all.

Fifth, prescriptions need to be better tuned. Every conference these days ends with the declaration, "India must spend much, much more on infrastructure." The infrastructure that these conferences urge India to spend more on, the infrastructure with which such advisors get satisfied is the conventional energy-intensive one: the materials used, the methods of construction, the end-product have all the hallmarks that the very same advisors, when they are talking of climate change and the like, urge India to avoid!

Sixth, few things would help as much as international collaboration in research and development of green technologies and products. One aspect of this, of course, is that a country like India has the talent to be an effective partner: that over 300 of the world's leading firms have set up Research and Development centres in India is testimony. But there is another aspect also: few things will persuade Indians to adopt beneficent technologies in general than the fact that other countries have adopted *technologies and solutions that have been developed here in India.*

Seventh, in our concern for the large things that need to be done to forestall climate change, we must not forget run-of-the-mill pollution such as the chemicals that paint or textile or pulp and paper or leather factories discharge into our rivers, the noxious fumes that cause respiratory diseases in our cities. A great deal of work had been done to bring these and the corrections that were necessary into

the public mind a few years ago. With everyone having been gripped by climate change, the earlier concerns have receded. Yet the malpractices remain, as do their ill-effects.

Finally, the question of what our position should be in the forthcoming negotiations at Copenhagen is too important to be left to the Government. Ever so often leaving such a matter to "Government" means in effect leaving it to three or four officers. And the easiest thing for them to do is to look up what the position has been in previous rounds, and find half a dozen more reasons by which to fortify it. That would be a gross mistake, as we have seen. Hence, organizations, experts, groups that are not adjuncts of Government should take up the task: draw up alternative positions that the country may take on each of the elements that are liable to come up at Copenhagen, and set out the relative merits of each alternative.

A reassessment that goes deeper

Each of these steps is necessary: each will restore and preserve the environment; each will spur growth. But we require to rethink at a deeper level. Today, our entire discourse is revolves around whether we will be growing at 6.7 per cent or 7.6 per cent. Quite apart from the fact that the way our GDP, etc. are estimated, such discourse places a concreteness on these numbers that is just not warranted, obsession with such growth rates obscures *what is growing at these rates*. Even a little reflection shows that were India to continue to pursue Western consumption patterns and production processes, twenty years hence all the steps taken together would have proved inadequate. There just aren't the resources that could sustain that energy-intensive, high consumption, fossil-fuel dependent "growth". Nor is it evident that higher and higher consumption and production of those commodities and services is what will contribute to what the Bhutanese have correctly identified as the goal towards which societies should strive—Gross National Happiness.

India produces more and more automobiles today; and that is growth. As a result, traffic moves slower and slower in its cities, burning up more and more petrol; that is even higher growth. Pedestrians and passengers inhale the fumes; they contract

respiratory ailments; as a consequence, they spend more on doctors and medicines, thereby they contribute doubly to growth. If, as a result of illnesses and expenses, their marriages come under strain and fall apart, they make another contribution to growth by the amounts they spend on lawyers and courts . . . If, instead of drying their washing in the sun as the wife used to do when they lived together, each of them, now that they do not have the time from their jobs, buys a dryer, they contribute to raising the GDP—and doubly so: by buying a dryer each, and then by using electricity instead of the sun . . . Assume for a moment that the persons in question are industrialists and, driven out of their minds by these traumas, they wind up their establishments in Delhi and set up industries in the North East. They cut down all the trees, and start shipping the processed timber back to Delhi—that is growth thrice over: the destruction of wealth, the forests, does not count; the value they collect for the timber, including the amounts expended on transporting it all that distance, is what counts, and the value of buildings which the timber would have facilitated.

Is this the "growth" that India will be celebrating twenty years from now?

9.

New beginnings?

Of course, I would have liked the election results to have been the other way round. But, of the remaining alternatives, what the electorate has handed down is the best one. While many had been celebrating the trend towards coalitions—"The real India is coming into its own . . . India's vibrant diversity is asserting itself . . ."—I had been alarmed by the descent towards more and more fractured results; leading to more and more splintered legislatures; leading to more and more unprincipled and weaker and weaker "coalitions" in which each partner is a law unto itself; not just coalitions with more and more parties as members, but coalitions with weaker and weaker cores, that is coalitions in which the dominant Party had ever fewer members. In the event, that perilous trend has been stemmed.

And the team that has taken office this time is more reassuring. The principal ministers are persons of substantial experience; none of them has the sort of taint that marred several ministers in the first Manmohan Singh Government; equally important, the principal ministers are ones who are less liable to ignite the acrimony that characterized the last five years.

As a result, the Government will have none of the alibis it relied on last time like the Communists, the allies. And the Opposition will have to work much harder to discharge its proper role. Indeed, for all parties, there are the same two lessons.

- Inside Parliament, each should seek to engage others in a competition for advancing the better ideas and proposals. No one will gain merely by shouting about *problems*, people know the

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Based on a speech delivered in the Rajya Sabha on the Address of the President, June 2009.

problems that afflict them; after all, they *live* them. They will have to be convinced that this side rather than the other has the better *solutions,* that it has worked out the solutions in detail, that it holds better promise of implementing the solutions rather than its rivals.

- ❐ Outside Parliament, the singular course for each party is that wherever whoever is in office should provide exemplary governance.

All this is to the good, and it is imperative that we act accordingly. We must remember that, yes, the country has enormous potential and, in the last ten years, we have had but a glimpse of what can be achieved; but, it is just as true that, unless we mend our ways, unless we improve our governance and discourse, the country can get stuck in that well-documented pit, the middle-income trap: Brazil, Mexico, Thailand, Philippines and so many other countries also registered spurts of high growth rates, only to get stuck before attaining their full potential. In a word, all sides have been afforded an unexpected opportunity to do right by the country; they must seize it, inside Parliament as much as outside.

Nor is the way ahead easy and smooth. In many respects, the situation facing the country is far more complex, indeed treacherous than is evident from the Address that the President has read out on behalf of the Government.

I shall begin with the challenges the country faces in foreign policy and defence; turn briefly to the economy and Reforms; and conclude by drawing attention to the most important respect in which the legacy of the last five years has to be reversed, a matter that finds no mention at all in the Address of the President.

I begin with paragraphs 41 to 44 that deal with foreign policy.

Precariously dependent

The paragraphs contain all the familiar homilies:

> My Government's foreign policy will continue to pursue India's enlightened national interest, maintaining the strategic autonomy and independent decision-making that has been its hallmark. India has vital interest in the stability and prosperity of its neighbours. The highest priority will be accorded to working with our friends in SAARC . . . My Government will seek to reshape

> our relationship with Pakistan depending on the sincerity of Pakistan's actions to confront groups who launch terrorist attacks against India from its territory . . . The momentum of improvement of our relations with the major powers will be maintained. The transformation of our partnership with the United States will be taken forward. Our strategic partnership with Russia has grown over the years, and we will seek to further consolidate it . . . With countries of Europe and Japan my Government will continue the sustained diplomatic efforts . . . The multifaceted partnership with China will be expanded . . . My Government will continue to work with other developing nations. It will contribute to all efforts at peace in West Asia . . . The traditionally close ties with countries in the Gulf will be strengthened. The process of engagement with Africa . . . will be further expanded. The multi-dimensional partnerships with countries in South-East Asia and the Pacific as well as Central Asia and the Latin American region will be consolidated . . .

Such phrases may be customary; they may even be useful if they are intended to hide what is actually intended; but when, as in this case, they represent the farthest-reaches of cerebration, they are hardly reassuring.

When the House discussed the assault in Mumbai, and its aftermath, I had warned, first, not to put Pakistan in the position of becoming the judge by offering to provide evidence; second, not to rush to Mummy, that is the United States. Unfortunately, these are the two things that the Government did, apart of course from planting stories in the media, legitimizing whatever it had done as well as whatever it was not able to do.

As a result, we are today in the same position vis-à-vis Pakistan as we have been for the last five years. In addition, we have become precariously dependent on the United States for dealing with Pakistan as well as China. "Why does the US not see that what it is doing to arm and assist Pakistan will only be used against India?" we ask. "Why does the US not see that *we* are the ones who can be made to stand up to China?" we ask.

We must remember two points about the position of the United States today:

- ❒ It is dependent on Pakistan.
- ❒ It is dependent on China.

The United States is dependent on Pakistan so that it may—somehow, anyhow—continue the fight which it has started in the

region till the time it can find an honourable exit. It is dependent on China to finance the bailout packages that are necessary to save its economy and financial system today: and remember, in any case the United States cannot afford to forget, that China has thrice shaken the tree in the last six months. Unfortunately, we continue to fool ourselves that, in spite of these realities, the United States will look after *our* interests vis-à-vis Pakistan, *our* interests vis-à-vis China.

Three developments are imminent, and the House should be alert to them.

First, the steps which were not just implicit, but explicit in the Nuclear Deal will now commence. In the coming months the country will be under pressure to sign on a slew of follow-up agreements which will freeze the power imbalances of today:

- The NPT review is scheduled for 2010, and there will be extreme pressure on India to sign up *without being recognized as a Nuclear Weapon State;*
- There will be similar pressure to sign the CTBT *without there being in place an international mechanism of verification;*
- And then to sign the Fissile Material Control Treaty or, if the Treaty is long delayed, to declare in effect adherence to the restrictions that are going to be prescribed in it—remember that during the Nuclear Deal negotiations, and explicitly under the Hyde Act, India was told that it must declare a cut-off date for producing fissile material even before the FMCT comes into force. Here also, we will be under pressure to abandon the stand we have hitherto taken, namely, that there must be an internationally controlled, and not a nationally controlled verification mechanism.

The slightest reflection will show that the stance that the verification mechanism must be an international one and not one in the control of one or two countries that have the technology for verification as of now is a substantive and not a semantic one. Today the United States does have the ability to verify. But can one rely on it to be even-handed? It has been well-documented, after all, how the US agencies knew for years about the *bazaar* that A.Q. Khan had set up: they chose to do nothing; indeed, they squashed researchers who had nailed the evidence. Hence, when verification is left to mechanisms

that are under the control of the very few countries that today have the requisite technical capacity, they will proceed by their convenience.

- We will also be told to sign the Proliferation Security Initiative. Recall that the Prime Minister had himself said that India has reservations about this in its present form.
- And an attempt shall certainly be made for a much tighter Additional Protocol of the International Atomic Energy Agency to be applicable to all countries other than the P-5.

Second, we will be under pressure to resume the so-called peace process with Pakistan, *without insisting on the condition that we have hitherto advanced*—a condition that was stated again just day before yesterday by the Foreign Minister, S.M. Krishna—namely, that we shall not resume the peace talks with Pakistan till it takes effective action against those who were behind the Mumbai attack, and till it demonstrably dismantles the terrorist infrastructure that has been set up for assaults on India. The peace process, so called, resumed, pressure will build to make concessions to Pakistan. Last time, we barely escaped by the skin of our teeth being made to withdraw our forces from Siachin, and that too just at the penultimate moment. By now, the United States has concluded that

- It is stuck in Afghanistan;
- For it to get out with some shred of honour intact, Pakistan is central;
- In Pakistan, the Army and ISI central;
- Hence, the United States just *has* to make available what the Pakistan Army and ISI want.

And as the Army of Pakistan and the ISI want the arms that they can eventually use against India, such arms and aircraft, etc. just have got to be given. As the Army of Pakistan and the ISI will not be placated till concessions—in regard to Siachin today, Kashmir tomorrow—are wrested from India, well, they just have to be wrested.

Just recall the sequence that has transpired in regard to Pakistan's nuclear weapons in the last two weeks. The *New York Times* published a report saying that American sources had evidence that Pakistan was rapidly increasing its nuclear weapons production

programme. In the hearing on 14 May 2009 of the US Senate Committee on Armed Services, Senator Webb asked the Secretary of Defence, Robert Gates, and the Chairman, Joint Chiefs of Staff, Admiral Mike Mullen, "I have [seen] written reports in the general news area, but from reputable commentators, that Pakistan is at the moment increasing its nuclear programme, that it may be actually adding on to weapons systems and warheads. *Do you have any evidence of that?*"

Admiral Mullen replied in one, unambiguous word: *"Yes."*

Senator Webb remarked, "That strikes me as something that we should be approaching with enormous concern. We are—we are spending a lot of time talking about the potential that Iran might have nuclear weapons capability, and this is a regime [the regime in Pakistan] that is far less stable and that should be a part of our debate. Do you have any idea of the percentage of the $ 12 billion, since 2001, that has gone toward—to Pakistan that has ended up with their security interest toward India or other non-terrorist or Taliban related threats?"

Secretary Gates and Admiral Mullen just waffled in response.

Four days later, on 18 May 2009 the subject was taken up repeatedly at the briefing given by the spokesman of the State Department, Ian Kelly. He was repeatedly pressed on this question about Pakistan expanding its nuclear arsenal and was asked, again and again, whether the United States would make its aid contingent on Pakistan desisting from such expansion. Again and again, and yet again, Kelly refused to answer the question. In fact, he went further and said that the United States shall *not* link the two.

Reflect too on the sudden somersault of the Pakistan Army in regard to the Taliban. One reason would, of course, be that by taking over Swat and advancing into Buner, the Taliban had reached within 60 miles of Islamabad. The second reason could well be that the United States, having just orchestrated the announcement of massive aid from the Friends of Pakistan club, may have conveyed to the rulers there that the aid would be held back unless they went hard against the Taliban. These would be substantial reasons. But they would be insufficient. We must reckon with the probability that, in addition, the United States would have assured Pakistan, "You go after the Taliban, and we will get India to make concessions on Siachin and Kashmir."

Third, we must expect greater and more persistent interference by the United States in our decisions even in regard to our own security. You will recall the great outrage and helplessness and consternation throughout the country in the wake of the attacks on Mumbai: outrage at the attacks and consternation at the fact that the Government of India did nothing and was able to do nothing to those who were behind the perpetrators.

One explanation for the Government merely going through the motions of response was what I had pointed out at the time, namely, that we are a country without options, and that is so because we have just not built up the capacity for the only thing that would work, namely, the capacity to "do a Kashmir" to Pakistan *in* Pakistan.

But there is another explanation also and this you will glean when you recall the testimony that was given by the Secretary of State, Hillary Clinton herself on April 23, 2009, before the House Appropriations Subcommittee on State, Foreign Operations, and Related Programmes.[1]

It is pointless blaming the Americans for any one of the preceding dangers. Consider Afghanistan, and the staying power which is required to affect in that country change of any substance that will last. Just a few years into it; just a few lives lost, and Americans are already asking, "Why in hell are we there?" Is it realistic or even reasonable to expect that they should sacrifice *their* lives to safeguard *our* interests? Will they go by *our* assessments of *their* interests or by their own assessments of those interests? To arrive at those assessments, will they hold a referendum or go by what the President and half-a-dozen of his advisors conclude? Will these few come to a conclusion here and now or wait for all the evidence to fall in place over the next decade? What they decide today may appear, a decade from now, to have been wrong. But the decision would have been taken, and we, as much as them, would have to bear the consequences.

In a word, we must develop close relations with a series of countries, including the United States. But first and foremost we must build up our own "Comprehensive National Strength." Second, we must stare facts in the face. In particular,

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[1]Relevant portions of the testimony are reproduced at p.71 above in the chapter entitled, "When the danger is imminent, loud and clear, Our voice must be insistent, loud and clear."

- We must look not at what some sundry ruler of Pakistan says; remember Musharraf when he visited Delhi, *"Main naya dil leke aayaa hun,"* and he continued doing exactly what he had been doing through his *puraanaa dil*; we must look at the nature of the Pakistani State and society. Is there any evidence that *that* is changing?
- Similarly, we must look at China's aim; the capacity it is acquiring; we must look at what it is actually doing, and not construct yet again a world of make-believe, the sort of fairy-land which landed us in a ditch in 1962.
- And, third, we must look at the real interests of the United States in this region, the current perceptions, and the current compulsions of the United States in regard to these before we outsource our national interests and security to it.

In a word, much more is required than the customary homilies that are set out in the paragraphs on foreign policy in the President's Address.

Defence policies

Unfortunately, the same is true of paragraph 12 that deals with Defence.

The paragraph is worth reading as an illustration for what passes these days as statement of policy, and that too in regard to the defence of the country:

> Our Armed Forces are the nation's pride, a symbol of our values of sacrifice, valour and the spirit of national integration. India's defence forces stand committed to the task of defending the territorial integrity of the country. They will be fully enabled with modern technology to repel any threat from land, sea or air. To enhance combat efficiency as also to address the requirements of modern day warfare, a number of steps are underway. The welfare of ex-servicemen will continue to be accorded high priority. The Committee headed by the Cabinet Secretary, to look into the issue of One Rank One Pension has already commenced its work and expects to complete it by the end of June 2009.

Both in regard to internal security as well as fortifying ourselves against external aggression, we face a dire situation. I do hope that at some stage the House will get the opportunity to discuss the entire

gamut of issues connected with Defence. For the moment, I will confine myself to four issues.

First, acquisitions as well as the development of new weapons systems have certainly fallen behind: in rocketry, for instance, we are behind even Pakistan, to say nothing of China. This is often blamed on the fact that, from time to time, allegations erupt against acquisitions that have been made and inquiries are launched. It is said that these allegations and inquiries are what lead officers to postpone decisions. This is far from being the case.

The fact is that two other features, features that are the complete opposite of what this charge entails, are what cause decisions to be shirked.

- ❒ Inquiries drag on.
- ❒ The guilty are never punished sufficiently and conspicuously enough.

This is why the honest officer concludes, "Why not just pass the file around, till the time I transit to my next posting?"
Hence, the way forward is:

- ❒ Expedite inquiries, make sure that they are concluded with lightning swiftness.
- ❒ Make sure that exemplary punishment is meted out to those who are guilty; and have that punishment echo in every nook and corner of the country.
- ❒ Demonstrate by your actions that you will stand by the honest officer, even if he makes a genuine mistake.

The second point relates to civil-military relations. We have never, but never, had a situation of the kind that erupted in the last few months in which the senior-most officers of the Armed Forces, officers and men who have staked their lives in defence of the country, have felt compelled to take to the streets, to return their medals to the President.

The question here is not just of one-rank one-pension, as someone reading paragraph 12 would seem to conclude. The entire gamut of recommendations that were made by the Sixth Pay Commission, and which were adopted by the Government, have caused great disquiet among the Armed Forces. There is a definite feeling that bureaucrats who assisted the Commission were able to get their way in the

interest of their services, in particular that they were able to reinforce the superior status of their services vis-à-vis the Armed Forces. This, in spite of the fact that our Army today suffers from a crippling shortage of officers. By now that deficit exceeds 25,000 officers. And the deficit affects field formations the most; that is one reason for the sharp increase in incidents of breakdown among *jawans*. All this is obvious to even the casual observer. It must have been obvious to the Pay Commission. It is obviously within the knowledge of the Defence Ministry. Yet, the pay revisions that have been decreed are certain to exacerbate the problem.

The second aspect of this question of civil-military relations is the balance between civilians, in particular civil servants in the Ministry of Defence, and the Armed Forces in the formulation of defence policy, defence strategy, and, therefore, to take one example, the planning, acquisition and development of weapons systems. The Armed Forces were asked to prepare a National Strategy Paper in 2006. They worked hard at it, and finalized it before the end of the year. Does it not alarm us to learn that this paper has been lying on a civilian's desk since *January 2007?* Are we not concerned, as I have noted earlier, when we find that no less a person than the former Chief of Army Staff, General Ved Malik, has felt compelled to refer to this fact in public? More than pay and allowances, more than one-rank one-pension, it is this which the Armed Forces want—a greater participation in the assessment of threats to the country, and in the formulation of the proper response strategy.

The third deficiency which we have to make up is what has become evident time and time again during the last ten years: inflicted by yet another assault, we come out as a country without options. That is so because, while we have acquired some types of capacity, for instance, of nuclear weapons; we have not acquired the capacity that a country that is committed to peace, requires; that is, the capacity to counter the entire spectrum of violence. For it is the enemy who shall select what kind of violence he shall unleash on the country. To give just one example which springs from the President's Address, consider the last sentence of paragraph 9, the paragraph that deals with internal security: "and hence information and intelligence sharing on a real-time basis, would be made possible by the creation of a *net-centric information command structure.*"

We must assume that these words are not there just because they are fashionable. The net-centric information and command structure is necessary. But it is also obvious that as societies develop, they become more integrated, and, hence, by striking at just a few nodes, an enemy can paralyse them; for that very reason, net-centric information and command structures, while they extend the capabilities of forces, become more vulnerable. Since 1989 China has been, as the then President of China said, marshalling "an army of hackers". Its strategic planners have declared time and again that they will acquire the capacity to strike at the acupuncture points of their enemies and thereby completely paralyse the societies within a few minutes: they are far into acquiring the wherewithal to disrupt air and rail traffic control systems, financial transactions, stock markets, communications and broadcasting services, and of course information and command structures of the Armed Forces—massively, simultaneously, instantly. Every other week, we learn of penetration by Chinese hackers, backed no doubt by the PLA and other agencies of China, into the computer, information and communication systems of countries as far apart as the United States, the United Kingdom, Germany and others. And we have had warnings upon warnings, what with countries like Estonia and Georgia being completely paralysed for a month at a time through these very means. But in our case, our defences in this area remain weaker than rudimentary. In fact, I have watched with great dismay as the initiatives which were begun seven-eight years ago for putting security systems around our infrastructure, around our financial systems, around governmental information and communication structures, have all languished, indeed most have lapsed into neglect.

An illustration from an allied sector will also bring home how oblivious we are of security. Countries like the United Kingdom and the United States have totally banned the adoption of communication systems—for instance, routers and servers in Telecom and information technology systems—from potentially hostile countries—in particular, from China which has been proven to plant backdoors and triggers in such hardware and software. In India the very same companies have, in spite of the strenuous objections of intelligence agencies, been allowed to install the very same sort of equipment across the country.

And look at the asinine "arguments" on which these decisions have been rammed through. When the intelligence agencies pointed to the dangers that using Chinese telecom equipment would entail, the representative of the Department of Telecommunications, so as to meet their concerns, proposed that restrictions on using such equipment be confined to areas bordering China! How is handing China the ability to disrupt networks in Mumbai with its financial activity, or Nasik with its defence production facilities, or Pune with its airbase, or Bangalore with its IT hub, any less consequential than giving it that ability in Pithoragarh? How will the capacity to disrupt the power grid in the South be any less consequential than to disrupt it in the North? And can the disruption not be programmed to cascade across the system? Even a fool knows the answer. Representatives of the Department of Telecommunications too would have known it. The only "reason" on account of which they advanced such an absurd proposal could have been that they were directed to do so. And they prevailed!

In a word, much greater alertness is needed, and much greater work on net-centric affairs, and the rest, work across a much wider swathe than is indicated by that last sentence of paragraph 9.

For, there is the challenge of China, a challenge and a threat that is intensifying by the week:

- China has a definite view about its own place in the world and in Asia.
- It has an equally definite view about India: that it is a potential nuisance, that it is one of the claws of the crab, the United States, which is trying to encircle China.
- And that, therefore, it must be kept busy in South Asia.

For this purpose, China has encircled India. Two further turns in this encirclement have been facilitated by the paralysis of the Government during the last three years:

- The paralysis in regard to the developments in Nepal, a paralysis which eventually culminated in the complete outsourcing of India's foreign policy to the CPI(M), gave China a wide opening to entrench as never before its influence in Nepal: this is the first time that China has acquired a firm position on the southern slopes of the Himalayas.

- Because of the nature of the last coalition, India's policy in regard to developments in Sri Lanka also remained paralysed: Pakistan stepped in with arms, China provided intelligence and even handed over persons of Tamil origin who were ferrying arms *via* the waters off northwestern Indonesia. The result is that Pakistan and China have acquired a great deal of goodwill among both, the people of Sri Lanka as well as the Government.

Nor is it just a matter of encirclement. The capacities that China is acquiring *vis à vis,* say, the United States—the capacity, for instance, to disrupt its power grids, or to blind its satellites—will be no less effective against India. And look at what it does by the month:

- China continues to reiterate with ever greater force its claims to Arunachal. Earlier this year, it blocked a plan from the Asian Development Bank because the proposed plan had a component, minuscule though it was, for a project in Arunachal.
- It has blocked every proposal for reform of the Security Council which might have secured a seat at the table for India.
- It has consistently put speed-breakers to slow the development of India's relations with ASEAN.
- China has also used its enormous economic muscle to establish its influence among countries from Latin America to Central Asia to Africa to Southeast Asia. Ask yourselves: which of these countries will go by the preferences of China in regard to Security Council reform and which will go by our preferences?
- Even more ominous, it has systematically continued to intrude into Indian territory all across the border from Ladakh to Arunachal Pradesh. The Director-General of the Indo-Tibetan Border Police (ITBP) had stated publicly that there had been close to 170 intrusions in 2007 alone. In 2008, the number of intrusions was even higher. The most reliable sources tell me that this year, and we are yet just at the beginning of June, there have been close to 80 incursions. Unfortunately, the Government continues to follow the suicidal policies of the late 1950s that culminated in the slap which was administered to us in 1962. To cite just one instance, in the first week of January 2009, Chinese armed personnel pushed back Indians from the Spangur Gap, very close to Chishul in Ladakh. Using the local language, they kept shouting, "You Indians get out, You Indians get out." The

> area was being guarded by personnel of the Indo-Tibetan Border Police. The Chief Executive Councilor of the Ladakh Autonomous Hill Council as well as other officials rushed to the place. The ITBP officers told them, "We have no instructions to reverse what has happened." Officials at all levels were told to hush up the matter. The result of such instances is that, in the last few years, in this area alone, we have lost another stretch of territory—90 km long, 20 km wide—to China. The Chinese used to be 15-25 km *away* from the Line of Actual Control. They would come and go, as we would. But today they have advanced and now sit *on* the Line of Actual Control. And what is the response of our Government? Look the other way, and hope that no one else will notice either.

In a word, much more will be needed in regard to the defence of India than is evident from paragraph 12 of the Address.

I turn next to the paragraphs that deal with the economy.

The economy and Reforms

In spite of the fact that a "dream team" was said to have been in place during the last Government, Reforms remained at a standstill. Apologists of the Government blamed the Left. The fact is that the Government's principal leaders were not prepared to stake anything for Reforms, and little can be accomplished—especially in regard to Reforms, which, after all, will necessarily dislocate some persons—if one is not prepared to stake something. And that difficulty, namely, that there will be some resistance, continues today. This is what dampens hope in regard to the promises which have been made through surrogate microphones, for instance in the media and in industry that, with the Left out of the way, this time round Reforms will be pushed swiftly and decisively.

For we should not forget that, because Reforms had been brought to a standstill, the momentum of growth had already begun to slow down well before the international economic meltdown. By March 2008, to cite just one example, over 25 lakh jobs had already been lost in the three sectors. Several reforms, like the dismantling of the Administered Price Mechanism in the petroleum sector, were actually reversed. Similarly, several initiatives which were going to restore our competitiveness, had been brought to naught: when

we met industrialists in October 2008, we were astonished to learn that for almost nine months there had been absolutely no disbursements from the Textile Modernization Fund.

It is never enough to execute one or two specific reforms. The momentum of Reforms has to be kept up. There are a host of reports waiting to be implemented: the report of Raghuram Rajan on the financial sector, of the Knowledge Commission on the entire system of higher and technical education, to cite just two examples.

Furthermore, as the tsunami of the international economic crisis began to reach our shores, the Government remained in denial. As a result, corrective measures were delayed too long. By now, as the Economic Advisory Council of the Prime Minister himself has stated, there is little fiscal headroom for stimulus packages; and most of the monetary policy instruments have already been deployed.

Therefore, the Government must

- Expedite the measures it intends.
- It must deploy the measures in time; it is better to risk being before time.
- The measures must be deployed, not by half-hearted incrementalism but as an avalanche, to overwhelm the problem that is emerging.

One thing necessary above all

The most important step that the Government can undertake, however, is not one reform or another, not this project rather than that; it is to *implement* the myriad schemes and projects that it already has in hand. To cite a single contrast, recall that we guarantee, by law, a rate of return of 16.5% on investment in mega power plants. Japan's post office bank alone sits on deposits of 2 trillion dollars, earning just 0.05 to 0.383 per cent interest. Yet such funds will not invest in our power plants, as they have little confidence that the plants will come up in time.

The point becomes obvious when we see that this Address is studded with the same desirables, the same hardy perennials that have featured in government proclamations without number.

Paragraph 35 of the Address proclaims, "This will require that all subsidies reach only the truly needy and poor sections of our society. A national consensus will be created on this issue and necessary

policy changes implemented." Reports after reports of successive governments have listed evidence that the subsidies are *not* reaching the needy, that food meant for them is being sold in black markets. Bibek Debroy recalls that in his first term, Dr Manmohan Singh declared on *twenty-four* solemn occasions that the country must review the subsidy regime, and ensure that subsidies reach the intended beneficiaries. As for finance ministers, each time Chidambaram takes on the portfolio, he has a paper prepared on subsidies—their incidence on the Exchequer, the leakages, the alternatives . . . He is soon reduced to pleading the need for a national consensus so that some improvement may be affected. He went through the sequence this time round also.

The exact same thing is true for Administrative Reforms. Once again, in the President's Address we are treated to declarations of determination to carry these out. Bibek Debroy draws my attention to a CD on this subject that has just been put out by the Department of Personnel. Guess, how many task forces, Committees, Commissions have been set up to study the matter, and have produced detailed reports and road maps, and governments have vowed to implement the recommendations? *Seventy-three!*

By now, these Commissions and Committees have been reduced to reiterating, I won't say reproducing the recommendations that have been made by earlier Committees and Commissions. You just have to compare what the new Administrative Reforms Commission headed by Veerappa Moily has recommended on a slew of matters with what the Commission to Review the Working of the Constitution headed by Justice Venkatachalaiah had recommended on the same matters.[1]

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[1]As a single example, take the Report, *Ethics in Government*, of the new Administrative Reforms Commission. On each of the following matters, its recommendations are exactly the ones that were urged by the Commission to Review the Working of the Constitution:

- National Judicial Commission;
- The imperative and urgent need to tighten the Prevention of Corruption Act, 1988, and the precise ways in which this should be done: when assets disproportionate to the known sources of income are found on a public servant, there must be the presumption of guilt; the rules for the Benami Transactions (Prohibition) Act, 1988, must be finalized and notified as, without these, the Act cannot come into operation: incidentally, the rules have still not been finalized, twenty ...

The five proposals

So, expeditious implementation is the key. And this is where the President's Address is particularly disappointing. When it comes to ensuring better implementation, the Address contains five proposals:

- "A Delivery Monitoring Unit in the Prime Minister's Office to monitor flagship programmes and iconic projects and report on the status publicly."
- "Suitably institutionalized quarterly reporting on flagship programmes as 'Bharat Nirman Quarterly Reports' where ministers would publicly report on progress through the media."
- "Strengthening public accountability of flagship programmes by the creation of an Independent Evaluation Office at an arm's distance from the Government catalyzed by the Planning Commission"—*at an arm's distance from the Government but catalyzed by the Government's component and habitual legitimizer, the Planning Commission!*

... years after the Act was passed; the immunity of legislators must not extend to corruption in connection with what they do in the legislatures; similarly, on the Lok Pal Bill, on the Lokayuktas, the recommendations of the Administrative Reforms Commission are exactly those that the Commission to Review Working of the Constitution had urged.

- They are the same in regard to local government structures: Schedules XI, XII, Article 243G.
- State Election Commissioners.
- Public Order.
- Even NREGA, the programme that the UPA Government has claimed as its patented programme, was urged by the Commission to Review the Working of the Constitution in 2002! This is how the Commission put the matter:

  1. It is in the rural sector that widespread poverty, unemployment, malnutrition, lack of access to healthcare and oppressive social customs that bear down heavily on women and children create a social landscape of appalling misery. It is here that a major action plan has to be launched to create additional jobs, to enhance incomes of those at the bottom rung of the social ladder and to create the physical and social infrastructure of a vibrant economy.
  2. *The Commission, therefore, recommends that a new article, say article 21-C, may be added to make it obligatory on the State to bring suitable legislation for ensuring the right to rural wage employment for a minimum of 80 days in a year.*

- "Establishing mechanisms for performance monitoring and performance evaluation in Government on a regular basis"—it isn't quite clear whether the Address promises that the *mechanisms* will be established on a regular basis or that they will be performing their monitoring and evaluation functions on a regular basis. If truth be told, the unvarying record of our governments is that such mechanisms are established on a regular basis!
- "Five Annual Reports to be presented by Government as Reports to the People on education, health, employment, environment and infrastructure to generate a national debate."

Now, the website of the Planning Commission has an entire section on the Programme Evaluation Organization (PEO). The website tells us that the PEO "was established in October, 1952, *as an independent organization,* under the general guidance and direction of the Planning Commission . . ." This "independent organization" was merged with the Planning Commission in 1973. The website tells us that the PEO "undertakes the evaluation of selected programmes/schemes under implementation," that "the PEO is conducting external evaluation, independent of the administrative channels, through direct observations, sample surveys and social science research methods." Compare each expression with what the President's Address says the new office, etc. will do.

What happened to the PEO was exactly what J.P. Naik's law forecasts: a problem erupts; we ignore it; the problem swells, we shut our eyes tighter; it explodes, we set up a Commission to recommend corrective steps; the Commission recommends that we set up an institution to deal with the problem; we set up the institution; five years later, the problem is still there and the institution has become a new problem!

Compare what the Address presents as if it were some novelty with what the 11th Plan said. "Mechanisms for this coordination, convergence & synergy at all levels have atrophied or are non-existent," it noted, in particular that "the capacity of the PEO has suffered even though the need for evaluation of Plan programmes has grown . . ." As is its wont, the Commission made the predictable recommendation: "A committee with representations of both the Centre and the states would be set up to formulate a plan of action to

improve the quality of public expenditure in key result areas and enable its public monitoring. This committee would have a timeframe of three months to give its report and would be part of the 11th Plan monitoring." That was in November 2007.

Similarly, in budget after budget, Chidambaram emphasized that what is important is not just outlays but outcomes. In his Budget Speech of 2005–06 he put it this way: "At the same time I must caution that outlays do not necessarily mean outcomes. The people of the country are concerned with outcomes. The Prime Minister has repeatedly emphasized the need to improve the quality of implementation and enhance the efficiency and accountability of the delivery mechanism." Hence, he announced, "During the course of the year, together with the Planning Commission, we shall put in place a mechanism to measure the development outcomes of all major programmes. We shall also ensure that programmes and schemes are not allowed to continue indefinitely from one Plan period to the next without an independent and in-depth evaluation . . ."

Accordingly, a new Central Plan Scheme, "Strengthening evaluation capacity in government," was introduced in 2005-06. The Planning Commission's website informs us that the outlays for this scheme to monitor schemes and programmes during the three subsequent years were pegged at Rs. 8.55 crore, Rs. 26 crore and Rs. 12 crore respectively. These amounts were sanctioned to the same, admittedly enfeebled PEO!

Chidambaram repeated similar declarations in his subsequent budgets. The Prime Minister kept emphasizing the same point in speech after speech.

As little happened, in his Budget Speech for 2008-09, Chidambaram took decisive action:

> I think we do not pay enough attention to outcomes as we do to outlays; or to physical targets as we do to financial targets; or to quality as we do to quantity. Government, therefore, proposes to put in place a Central Plan Schemes Monitoring System (CPSMS) that will be implemented as a Plan Scheme of the Planning Commission. A comprehensive Decision Support System and Management Information System will also be established. The intended outcome is to generate and monitor scheme-wise and state-wise releases for about 1000 Central Plan and centrally sponsored schemes in 2008-09.

Given the words that were fashionable at the time, he added,

> Government also intends to strengthen evaluation. Some ministries have started concurrent evaluation. This needs to be supplemented by independent evaluations conducted by research institutions. The Planning Commission will authorize such evaluations of the major schemes and complete the task by the time of the mid-term review of the 11th Plan.

What will the new reports and mechanisms that the Address proposes accomplish that the schemes and mechanisms that were set up in the last four years could not?

As for the new proposals of setting up a Delivery Monitoring Mechanism in the Prime Minister's Office and an Independent Evaluation Office "catalyzed by the Planning Commission," we seem to forget that

- A committee has already been functioning under no less than the Prime Minister himself to ensure the expeditious implementation of and to monitor the implementation of all major infrastructure projects.
- Similarly, as the projects under the National Highways Authority (NHAI) had come to a near standstill, an "independent evaluation" of their implementation was entrusted to the Planning Commission. The Prime Minister himself took a much-publicized review. Decisions were taken at the review. The result was that, while the prescribed period for awarding contracts had been laid down as five months, the NHAI, after the review, and the decisions taken at the review, has been taking 20 months to award the contracts.
- As power projects have been falling behind at a rate even greater than other infrastructure projects, yet another committee was set up, this one under the then Finance Minister, Chidambaram, to ensure that all bottlenecks were removed. The committee continued to function, the power projects continued to take longer and longer.

And yet, what the President's Address promises is another "Delivery Monitoring Mechanism in the PMO", another "Independent Evaluation Office catalyzed by the Planning Commission"!

As for the "institutionalized quarterly reporting", and the five annual reports, they will be of assistance only to the ***extent to which***

the reporting is candid. If all that happens is what has been happening in the Action Taken Reports that follow commissions; if all that happens is what has been happening in the Action Taken booklet that is now being appended to budgets, no object will be fulfilled. People will not be better informed, officials will not be any more accountable, nor will implementation be nudged to become more expeditious. Recall what was said in those documents about drinking water, about power, about the Rajiv Gandhi Grameen Vidyuti Karan Yojana, and what the facts actually were. Inquire if a single person, official or minister, suffered either for the shortfalls or for the *suggestio falsi*. The problem is that the same culture of insinuating the false, and suppressing the true, continues. Reading paragraph 22 of the Address that the President has given this year, you would conclude that the Government has, in fact, achieved what it set out to do under the Bharat Nirman programmes five years ago. In fact, on every single item the achievements have been far, far below targets.

In a word, on the crucial point of *implementation*, the new Government augurs no new beginning.

What we need is an approach that is much sterner, and at the same time much more generous:

- A massive system of rewards to states as well as to firms which implement projects within the time frame and cost estimates that had been agreed to in the beginning. *This is what will be the real stimulus package:* it will get money to those who work on these projects and thereby stimulate demand; even more important, it will leave in its wake completed capital assets.
- A corresponding system of penalizing those firms and officers that do not implement projects in time and within the stipulated cost.

An illustration will bring home the culture that prevails and what we need instead. To rein in the enormous cost overruns and time overflows that were typical of projects, the Cabinet decided that, when and if a proposal came for approval of additional funds, it would be accompanied by an inter-ministerial report fixing responsibility for the overruns. At one stage, I read 30-odd of these reports. *Each and every one of them* without a single exception concluded that no one was to be blamed, that the overruns had taken

place because of "systemic failures", that *mantra* of universal absolution!

- We must quickly pass whatever changes in the law are needed: for instance, the Address mentions the Land Acquisition Bill. Compensation should be based on market price, not some artificially notified governmental figure. Save in the rarest of rare cases, the entrepreneur should purchase the land directly, governments should not acquire it for him. Rehabilitation must be full. The persons who were displaced must be given both a stake in and jobs in the new project. This is not rocket science. The components have been enumerated times without number. Indeed, one consequence of Nandigram and Singur has been that all governments and political parties have deliberated on alternatives. These can be swiftly taken into account, and the Bill passed.

These are the sorts of things on which we should all join to ensure expeditious implementation.

Two cautions

In regard to the specific reforms that have been listed in the Address, I urge two cautions.

The first is in regard to disinvestment. What has been proposed—that up to 51 per cent shares in governmental enterprises will be sold, while government control over the enterprises will be maintained—is the worst possible alternative.

- This is what was tried between 1991 and 1998. The entire amount realized from the sale of government shares went into, and will now go into the black hole of fiscal deficits.
- Such sale of government shares while retaining control in government hands, does not change the *governmental character of the enterprise,* which is the real malady: for instance, look at what has happened to Air India in the last five years, the very years in which Civil Aviation is the one sector in which Reforms have continued apace.
- In fact, this device of selling shares to raise resources, encourages fiscal indiscipline: wasteful, populist expenditures

are made, and then deficits are sought to be plugged by selling shares.

The only justification for what is being proposed today is that fiscal mismanagement in the last five years, particularly in the last two years has now left no alternative at all.

Therefore, I sincerely hope that a seasoned person like Pranab Mukherjee will steer the Government's finances back to prudence, and that we will get back to the discipline of the FRBM.

Second, I must caution against attempts, ever so visible once again in the President's Address, to justify everything in the name of "inclusiveness". "My Government will continue to accord the highest priority to the welfare of Minorities," the Address says. Why not that "highest priority" to the security of the country? Why not to the families of those who have laid down their lives in defence of the country? Why not to the poor, whatever their religion? When expenditures are made which will, to everyone's knowledge, leave no capital assets in their wake, they are justified in the name of "inclusiveness". Now the absolutely suicidal schemes which are being launched for the ostensible purpose of helping Minorities, are again being justified in the name of "inclusiveness".

I am for the fullest possible help to every deprived section of society. But there are five principles of secularism that must form the banks within which such assistance is given:

- First, the individual must be the unit of State policy, not a group.
- Second, in selecting the individual, secular criteria must be used: for instance, income and asset levels—the sort of criteria that are used in identifying individuals and families that fall below the Poverty Line.
- Third, we should never give to a group of one religion what we will not give to groups of another religion.
- Fourth, we must never give to a religious group or institution, what we will deny to a secular group or institution.
- And, fifth, the help which is given must not be in the form of an entitlement as in Reservations, as in the Prime Minister's declaration, "Muslims have the first claim on the resources of the country." It must be positive help, help that will lift that individual to a level where he can compete with others on an

equal footing.

The lesson of history is that discourse, perceptions, politics, and eventually power, get congealed around the criteria on which allocations are made by the State, schemes are formulated, or help is proffered. The classic device of the British divide-and-rule policy was exactly this: a group could get assistance or a privilege if it remained, and to the extent that it remained separate from the rest of society. Recall their diabolic decision to decree separate electorates for Muslims. And recall its fatal effect: in his book written in the 1940s, W. Cantwell Smith put the point in prescient words:

> A Secretary of State for India, Lord Olivier, once admitted the playing-off of one community against another: 'No one with any close acquaintance of Indian affairs will be prepared to deny that on the whole there is a predominant bias in British officials in India in favour of the Muslim community, partly on the ground of closer sympathy but more largely as a make-weight against Hindu nationalism.' The government's method of encouraging communalism has been to approach all political subjects, and as many other subjects as possible, on a communalist basis; and to encourage, even to insist upon, everyone else's doing likewise. The principal technique is separate electorates: making the enfranchised Muslims, and the enfranchised sections of many other groups, into an increasing number of separate constituencies, so that they vote communally, think communally, listen only to communal election speeches, judge the delegates communally, look for constitutional and other reforms only in terms of more relative communal power, and express their grievances communally. Even the British government has admitted on occasions that the system serves to keep India from gaining independence by political means: 'Division by creeds and classes means the creation of political camps organised against each other, and teaches men to think as partisans and not as citizens . . . We regard any system of communal electorates, therefore, as a very serious hindrance to the development of the self-governing principle.' [Edwin Montague, Secretary of State for India, and Lord Chelmsford, Viceroy, *Proposals for Indian Constitutional Reforms*.] And as this same statement goes on to say, the principle works so well that once it has been firmly established, it so entrenches communalism that one could hardly then abandon the principle even if one wished to do so.[1]

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[1]W. Cantwell Smith, *Modern Islam in India*, 1946, Reprinted by Usha Publications, New Delhi, 1979, pp. 216-17.

It is this seed which eventually led to the Partition of India. The identical result has ensued from the decision to base Reservations on caste—that accursed and evil fissure, caste, which was being dissolved by modernization, has been bolstered. What is being done in a state like Andhra today—repeated decrees, in spite of their being struck down by courts, making reservations for Muslims as Muslims; grants of Rs. 12,000 to every Muslim and Christian couple on their marriage; subsidies for journeys to Mecca and now Jerusalem—and what is being planned in the wake of the Sachar Committee Report are an exact replay of that sequence of the first half of the last century. What happened then, will happen now: such communal measures will widen the earth-faults of our society; they will foment separatism, and the country will be reduced to fending off demands for separation.

Therefore, I sincerely hope that the Government will think again about where the measures which it is pushing for the ostensible purpose of helping Minorities will eventually lead the country.

10.

In spite of the mandate

Reforms had been at a standstill for five years. The economy had clearly begun to lose momentum by mid-2007. Announcements continued to be made of measures that will be taken, and, soon thereafter, stories kept being planted explaining why the announcements remained announcements. On top of that had come the global economic meltdown. Exports had been severely hit. Confidence had been hit even more. The Government had remained in denial for months. At last the symptoms had become so apparent that it had been forced to deploy the usual measures, measures that others had been urging for months.

But soon, these measures had been exhausted. All the monetary instruments had been used; financial mismanagement of the preceding two years had left little room for further fiscal stimuli.

The only relief had come, paradoxically, from the Pakistani terrorists who struck Mumbai. Because of them, Shivraj Patil had been removed from the Home Ministry, and P. Chidambaram had been given Patil's post. He became the first Home Minister in many years to attend to systems, but it also meant that he was no longer in the Finance Ministry! Pranab Mukherjee had assumed charge.

It is against this background that the country went to the polls. Every thoughtful observer was scared at the prospect of an even more splintered Parliament, and a "third-front" government taking office. Fortunately, that did not happen. The Congress got 60 more seats than it had in the previous Lok Sabha. It needed the support of just two other allies—Trinamool Congress and the DMK—and the larger of these two had less than one-tenth of the seats of the Congress.

Based on a speech delivered in the Rajya Sabha on the Budget for 2009-10, July 2009.

In a word, while a coalition had been given office, the core of the coalition was much stronger.

A stronger coalition; the person who is said to be the architect of Reforms not just as the Prime Minister again, but as a Prime Minister whose personal position is now unassailable; a seasoned hand as Finance Minister; those who were said to have blocked Reforms, decimated; economic growth having slowed down dramatically; no one in any doubt that the real stimulus will be a big push for Reforms—for all these reasons, everyone expected that the Budget for 2009-10 would itself announce several reforms, and, even more so, that it would spell out a clear roadmap for Reforms that would be instituted in the ensuing months.

In the event, the Budget has delivered on none of the expectations. The Sensex fell by 850 points on hearing it. Rationalizers have swung into action. "Good in content, lousy presentation" they chime.

But the presentation is truthful. As there are no substantial ideas, the Budget sticks to form: it is the usual *dhobi* list. "X" crore for programme "Y" . . . Not a word on labour reform. Not a word on how execution of projects will be expedited. Not a word on the major financial sector reforms that have been proposed by committees set up by the Government itself. Not a word on the proposals that have been urged by experts after experts on reorienting energy—open access, distributed generation. Not a word on opening up and changing the shape of even the coal sector. Of course, not a word on the new opportunities to, and the urgent need to, green our economy. On the contrary, there is the ominous genuflection to Mrs Indira Gandhi:

> Our Government's approach to the banking and financial sector has been to ensure robust oversight and regulation while expanding financial access and the deepening markets. The merit of this balanced approach has been borne out in the recent experience, as the turbulence in the world financial markets has left the Indian banking and financial sector relatively unaffected. *Never before has Indira Gandhi's bold decision to nationalize the banking system exactly 40 years ago—on 14th of July, 1969—appeared as wise and visionary as it has over the past few months*. Her approach continues to be our inspiration even as we introduce competition and new technology in the sector.

The saving grace probably is that the obeisance is just that, a ritual, that the bow is just ceremonial, and is not to be taken seriously. It is not just that such prostrations are *de rigueur* in the Congress; the very words having fallen from Sonia Gandhi just a few months earlier, incorporating them in the Budget speech had become almost obligatory!

Of course, there are a few small mercies. The Fringe Benefit Tax has been removed; unwilling to admit a blunder, Chidambaram had continued it with customary obstinacy. The Service Tax has been extended to lawyers; Chidambaram had left this class out on a mere witticism, "Lawyers don't provide a service." A few measures can be said to be steps towards rationalization of the tax structure: the ten per cent surcharge on personal income tax has been removed; excise on commodities that have been paying four per cent have been raised to eight per cent, a step that it is said will facilitate harmonization later . . . The unified Goods and Services Tax, the Budget says, will be introduced on schedule.

But such changes are in the second order of smalls. They certainly do not set the sights for a country that aims to be an "economic superpower". Even C. Rangarajan, the former Governor of the Reserve Bank, and the former Chairman of the Prime Minister's own Economic Advisory Council has been constrained to characterize this as "an expenditure Budget", in that its principal announcements are additional outlays for the usual slew of programmes.

Two reforms

Only two reforms are mentioned. And, as *something* has to be plucked by propagandists, they have been hailed. The first is the proposal on fertilizer subsidy. The second is an announcement on pricing of petroleum products. Reading what has been proposed in regard to each, and recalling what has transpired earlier in regard to both of them, will enable us to see the real Reforms-quotient in this Budget.

On fertilizer subsidy, the Budget speech says:

> In the context of the nation's food security, the declining response of agricultural productivity to increased fertilizer usage in the country is a matter of concern. To ensure balanced application of fertilizers, *the Government*

> *intends to move towards a nutrient-based subsidy regime instead of the current product pricing regime.* It will lead to availability of innovative fertilizer products in the market at reasonable prices. This unshackling of the fertilizer manufacturing sector is expected to attract fresh investments in this sector. *In due course it is also intended to move to a system of direct transfer of subsidy to the farmers.*

Hence, two elements: First, "the Government *intends to move towards* a nutrient-based subsidy regime instead of the current product pricing regime." And second, "*In due course* it is also intended to move to a system of direct transfer of subsidy to the farmers." Both reforms are put in the indefinite future. That is one aspect. There are at least two others that give us a glimpse into economic policy making.

Consider: is the fact that the pattern of subsidies is causing imbalanced use of fertilizers and thus harming soil fertility a sudden revelation? Here is what the Planning Commission—headed by the Prime Minister, and having as its members both the present and the preceding Finance Ministers—said in its *Mid-term Appraisal of the Tenth Plan* four years ago:

> One of the proven and well-documented reasons for stagnation in the productivity and production growth rate since the early 1990s is the unbalanced use of fertilizers. Although matters have improved considerably since the mid-1990s, the current fertilizer ($N:P_2O_5:K_2O$) consumption ratio in the country is 6.5:2.5:1 as against the conventionally accepted ratio of 4:2:1. The consumption ratio in several agriculturally advanced states is still wider. Although the DAC emphasizes on increasing fertilizer use, especially in the states where their consumption is low, by providing adequate infrastructure and quality control measures, it has been unable to develop or implement schemes/strategies for promotion of balanced fertilizer use. In fact, with the increasing incidences of multiple nutrient deficiencies in the soils, the meaning of balanced fertilizer use is entirely changed. It is not only confined to the use of NPK but also need-based application of nutrients like sulphur, zinc, iron and boron which have become essential for exploiting the potential of high-yielding varieties. Experimental evidences indicate that the productivity of existing varieties can be enhanced appreciably provided rational crop nutrition schedules are followed. The major bottlenecks are . . .

Nor was it in any doubt about one of the major culprits that was accentuating this problem:

> Continuation of the subsidy on urea while decontrolling P&K fertilizers further adds to the inadvertent promotion of imbalance in fertilizer use on the one hand and excessive use of fertilizers-N on the other, leading to environmental pollution and lowering of profits to the farmer.[1]

The problem having been flagged, its cause having been identified, nothing need be done. And so nothing was done! Three years later it was time to release the Eleventh Five Year Plan. Again, the Prime Minister, the present and preceding Finance Ministers were members of the Planning Commission as indeed they were of the Cabinet that adopted the Plan. This document once again flagged the problem. Indeed, it placed it in the "priority-list":

> Soil degradation through use of agro-chemicals is a serious issue that needs to be addressed on a priority basis during Eleventh Plan. Imbalanced use of chemical fertilizer has led to declining fertilizer response in the fertile irrigated regions. Excess use of some nutrients, driven in part by imbalanced subsidies, has led to depletion of other nutrients from the soil leading to deterioration of the soil health. The nature and extent of the problem differ in different parts of the country . . .[2]

As for the reason, it traced not just the imbalances in the pattern of use and the consequential fall in the quality of soils to it, the document traced other imbalances—from that between regions to the inadequate use of micro-nutrients—to the pattern of fertilizer subsidies:

> The present system of fertilizer subsidy is irrational and has become counter-productive. Fertilizer is sold at almost the same controlled price throughout the country. However, because nitrogenous fertilizers are subsidized more than potassic and phosphatic fertilizers, the subsidy tends to benefit more the crops and regions which require higher use of nitrogenous fertilizer as compared to the crops and regions which require higher application of potassic and phosphatic fertilizers. The imbalance in the use of nitrogen-phosphorus-potassium (NPK) brought about by distortions in price ratios in favour of nitrogenous fertilizer is creating serious problem of soil degradation and adversely affecting productivity. Balanced use of fertilizer can be achieved either by redistributing the present amount of fertilizer subsidy over NPK in a manner which is nutrient neutral or by increasing subsidy on P and K

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[1] *Mid-term Appraisal of Tenth Five Year Plan,* Planning Commission, June 2005, p. 204.

[2] *Eleventh Five Year Plan,* Planning Commission, Volume 3, June 2008, p. 15.

> in such a way that farmers are induced to use NPK in the right proportion. The price control system also discourages producers from adding micronutrients to standard fertilizer eligible for subsidy because the controlled price parameter for that fertilizer cannot be adjusted to cover the cost of micronutrients added. Immediate steps should be taken to allow the major producers to charge costs for adding micronutrients. Many of the micronutrients are also reserved for small-scale production. This segment should be de-reserved in the interest of the agricultural community . . .[1]

Now, a year is too short a period for policies to be changed, even when the fact that there is an urgent need to do so has been recognized for years, and for the changed policies to have effect. Hence, the *Economic Survey* that the Finance Minister presented just three days before the Budget repeated the analysis and warning almost verbatim:

> Chemical fertilizers have played a significant role in the development of the agricultural sector. The per hectare consumption of fertilizers in nutrient terms stands at 117.07 kg in 2007-08. However, recent trends in agricultural productivity show a decline in marginal productivity of soil in relation to the application of fertilizers and in some cases has also become negative. Some of the evident factors contributing to the decline in marginal productivity are skewed NPK application ratio in the country, comparatively higher application of straight fertilizers like urea, DAP and MOP as against the complex fertilizers (NPKs) which are considered to be agronomically better and more balanced fertilizer products. Lack of application of proper nutrients based on soil analysis has also contributed to slowdown in growth of productivity . . .[2]

Along the way, the Government had itself claimed that it is on the verge of announcing the new regime. In his Budget for 2007-08, Chidambaram declared, "While fertilizers should indeed be subsidized, we must find an alternative method of delivering the subsidy to the farmer. The fertilizer industry has agreed to work with the department of Fertilizers to conduct a study and find a solution. Based on the report, Government intends to implement a pilot programme in at least one district in each state in 2007-08." In *Implementation of Budget Announcements* distributed with the

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[1] *Ibid*, p. 16.

[2] *Economic Survey 2008-09*, Ministry of Finance, p. 178.

2008-09 Budget, Chidambaram told Parliament, "The modalities for providing an alternative method of delivering fertilizer subsidy directly to the farmer are being worked out. The proposal was examined by a Group of Ministers and the Report is being finalized."

And this time round, the Budget repeats the same diagnosis, issues the same warning, but, as for doing something, declares that the Government *intends* to do right in the undefined future, that *in due course* it will plug the gaping leakages in the subsidy regime by moving towards a direct payment of subsidy to the farmers.

That is one aspect of the matter: the years and years it takes governments to institute what their own analysis shows must be urgently instituted. But there is another aspect too. As we just saw, in the Budget speech, the Finance Minister said that Government *intends* to move towards a nutrient-based subsidy regime, etc., that *in due course* it will move towards paying the subsidy directly to the farmers. But in the document that the Finance Minister himself placed in Parliament just three days before he presented the Budget, the *Economic Survey,* the Government took credit for already having put these changes into effect!

Just see what the *Economic Survey* says on this very matter:

> The international prices of fertilizers increased manifold and the domestic cost of production of fertilizers has also increased during the last couple of years. In spite of this, the prices of fertilizers have not been increased and have been kept at the same level of 2002 for major fertilizers. In addition, *due to implementation of nutrient-based subsidy pricing,* prices of various complex fertilizers were reduced by 18 per cent on an average . . .
>
> *The Government has taken various policy initiatives for the fertilizer sector.* These cover pricing policy for indigenous urea, new investments in urea sector, *nutrient-based pricing,* production and availability of fortified and coated fertilizers, uniform freight subsidy on all fertilizers under the fertilizer subsidy regime, concession scheme for decontrolled phosphatic and potassic fertilizers, inclusion of Mono Ammonium Phosphate (MAP), Tri Super Phosphate (TSP) and Ammonium Sulphate (AS) in the concession scheme, revised scheme for concession for Single Super Phosphate (SSP) based on inputs cost and a uniform all-India maximum retail price of Rs. 3,400 per tonne for SSP, policy for conversion of FO/LSHS urea units to natural gas . . .[1]

What is happening? We no longer expect Ministers of Finance to read the *Economic Survey* that is prepared by their officials and

[1] *Economic Survey 2008-09,* Ministry of Finance, p. 217.

which they themselves table in Parliament. But is it now the case that even the officials of the Ministry—who prepare both the *Survey* as well as the Budget—no longer read it?!

The other reform

On petroleum subsidies and prices, after recalling how prices had shot up in 2008-09, and how, in response, other countries, unlike India, had raised prices of petroleum products, the Budget speech says:

> . . . Though prices have declined since then, they are already about double of the lows reached in the wake of the global financial crisis. It is important to recognize that, with almost three-quarters of our oil consumption met through imports, the domestic prices of petrol and diesel have to be broadly in sync with global prices of these items. *Government will set up an expert group to advise on a viable and sustainable system of pricing petroleum products* . . .

This will be the *fifth* committee of experts to look into the matter in the last four years! In 2004, the Government received the recommendations of the Lahiri Committee which it had appointed. And in his Budget for 2005-06, Chidambaram promised swift action on the basis of the Report. He said, "As far as petroleum products are concerned, the Government has received the recommendations of the Lahiri Committee, and appropriate decisions have been taken, to which I shall refer in Part B of my speech."

In 2005, the Planning Commission's group of experts produced a thorough report on the *Integrated Energy Policy* which, *inter alia,* dealt in detail with pricing of petroleum products. The Government appointed yet another committee—headed, almost inevitably, by C. Rangarajan, the former Governor of the Reserve Bank and the former Chairman of the Prime Minister's Economic Advisory Council. In the Budget for 2006-07, accordingly, Chidambaram was able to go beyond the Lahiri Committee. He said, "My Ministry has held extensive discussions with stakeholders on three major subsidies, namely, food, fertilizer and petroleum. We have also sought the views of the general public. Working groups/committees have gone into the question of fertilizer and petroleum subsidies, the latest being the Dr C. Rangarajan Committee. I would urge members to help the Government evolve a consensus on the issue of subsidies."

Paralysed by the steep rise in POL prices through 2008, the Government, as you would by now expect, appointed yet another committee to study precisely the same matter. That was the B.K. Chaturvedi Committee. It submitted its recommendations in mid-2008.

It was time now—not to do something on the matter, but to reiterate the desirable. Hence, the full Planning Commission meeting under the chairmanship of the Prime Minister himself, declared in the 11th Plan document,

> As a practical matter, full competition at refinery gate and retail level within the declared price caps should be allowed. Such competition will lead to lower prices and, over a period, lead to limiting/eliminating the government support on automotive fuels. If such price caps entail any compensation to National Oil Companies (NOCs) through pricing of crude oil or otherwise then such benefit should be made available evenly to both public and private sector players. The ultimate objective should be to remove government intervention in pricing of all petroleum products and provide targeted subsidies directly to the intended beneficiaries. Such subsidies should be funded through the National Budget. Full competition at the refinery gate and retail level would lead to trade parity prices . . .
>
> The phasing out of subsidies on domestic LPG and PDS kerosene envisaged during the Tenth Plan was not achieved . . .

Nor did the 11th Plan document leave the matter there. It proceeded to declare,

> With the dismantling of APM [the Administered Price Mechanism] for petroleum products w.e.f. 1 April 2002, it was envisaged that the price of petroleum products would be moved from APM to market-determined pricing mechanism. An import parity pricing mechanism was followed by the oil industry which was subsequently modified to trade parity pricing as an approximation to competitive market prices. Full price competition at the refinery gate and retail level needs to be adopted to enhance competition in the sector. For kerosene, it is proposed to provide direct subsidies to the consumers, particularly those below the poverty line [BPL]. A system of smart cards for supply of kerosene to BPL families would be introduced. With the smart card, kerosene may be bought from any shop at market price. In case of domestic cooking gas also, it is proposed to phase out subsidy gradually with the introduction of smart cards for domestic LPG which would help in preventing diversion of domestic LPG to the commercial sector . . .[1]

[1] ***Eleventh Five Year Plan***, Planning Commission, Volume 3, June 2008, pp. 364, 367.

The desirable having been reiterated, it is time to set up another committee of experts—as Pranab Mukherjee has now done.

Why does the matter not move? Is it just bureaucratic inertia? The answer, at least in part, is available in an earlier report of the Planning Commission itself. In its *Midterm Appraisal of the Tenth Plan*, the Commission noted,

> The current pricing policy based on import parity is not transparent and includes several elements in the price build up that are debatable. In any event, recent history shows that increase in product prices are not always in tandem with increase in crude oil prices. Further, the current pricing mechanism uses import parity pricing even for products, in which India is the net exporter. *This provides higher margins to the refiners.* Economic rationality suggests that trade parity should be the norm for pricing instead of import parity. Moreover, custom duty on crude oil is 5 per cent while average duty on petroleum products is 10 per cent. *This further increases the refinery margins.* The normative transportation and storage costs charged to the products instead of the actual costs *also increase the margins of refining and marketing companies. Private sector refineries are following the same methodology for building up prices for their products.* Bulk of the output from private refiners is being marketed by the oil sector CPSUs [Central Public Sector Undertakings]. *The current-pricing methodology results in large profits and cash surpluses for the oil and gas sector CPSUs and even larger benefits for the more efficient private refineries.*[1]

Any wonder that, instead of doing what four committees it had set up have recommended in just the last four years, the Government has set up yet another committee of experts?!

Another typical proclamation about another typical programme

The country is short of power. Efforts to interest private sector companies and foreign investors have been proceeding at snail's pace. Implementation of projects that have been sanctioned has been woeful. Every policy document has expressed determination to speed things up.

One of the problems has been the enormous extent of Transmission and Distribution losses, an expression that subsumes

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[1] *Mid-term Appraisal of Tenth Five Year Plan*, Planning Commission, June 2005, p. 347.

"theft and dacoity" losses. The *Expenditure Budget* document that Pranab Mukherjee has tabled along with the Budget this year puts these losses at *thirty-five per cent*. Between the generation of electricity and its billing, 35 per cent evaporates! On this matter also, governments have declared their determination again and again. And there is a special programme for this: the Accelerated Power Development and Reforms Programme, the APDRP. It aims at strengthening sub-transmission, that is the transmission system within states, and, of course, the distribution system and the reforms associated with it. The objective, as the *Expenditure Budget* tabled this year puts it, is to reduce T&D losses from 35 per cent to 15 per cent.

In his Budget for 2007-08, Chidambaram said, "Huge investments are required to be made in T&D, but linked to fundamental reforms. Hence, I propose to create a national fund for transmission and distribution reform. The details of the scheme will be worked out and announced very soon." What was done—in fact, what was *not* done—becomes evident from the *Implementation of Budget Announcements* that was tabled with the Interim Budget 2009-10 in February 2009. The relevant entry is really worth reading:

> *Sanction* for restructured APDRP has been issued on 19.9.2008. A *Steering Committee* has also been constituted for its implementation. Power Finance Corporation [PFC] has been appointed as *Nodal Agency* for operationalizing the programme. PFC has appointed M/s KPMG as *'Process Consultant'* and started taking action on *'Empanelment of IT Consultants'* for its implementation during 11th Plan. A *'Quadripartite Implementation Agreement'* amongst Ministry of Power, PFC, state government and state utility and the terms and conditions for release of funds under restructured APDRP, have been drafted and are being finalized in consultation with Ministry of Finance. The guidelines for the restructured APDRP have also been issued on 22.12.2008.

Two years having gone, what has been done about those fundamental reforms that were so urgently required is that

- ❒ The programme has been restructured, and the sanction for this restructured programme has been given;
- ❒ A steering committee has been constituted;
- ❒ A nodal agency has been appointed;

- It has selected a "process consultant";
- It has "started taking action" for empanelment of IT consultants;
- A "quadripartite agreement" between various levels of government and governmental enterprises has been drawn up.

Nothing, of course, has as yet been done on the ground!

But what about that national fund for transmission and distribution about which Chidambaram had assured Parliament "the details of the scheme will be worked out and announced very soon"?

Well, it has been renamed. Henceforth, it is to be known as the National Electricity Fund (NEF). As for what has happened to this renamed fund, the *Implementation of Budget Announcements* document tabled in February 2009 gives the answer as follows:

> *A Committee* under the Chairmanship of Member (Power) has been constituted by Planning Commission to consider various aspects of establishing a NEF. It was decided to *form a sub-committee* under the Chairmanship of Secretary (Power) to make recommendation on issues relating to operationalisation of NEF. The matter is currently under examination.

Hence,

- A Committee has been formed;
- The Committee has had a meeting;
- At the meeting it has decided to form a subcommittee;
- The matter, therefore, is under examination!

In the meantime, the 11th Plan document had been approved. It says that restructuring the Accelerated Power Development and Reform Programme is "one of the main challenges" of the 11th Plan period.[1]

And now see what Pranab Mukherjee declares and provides in this Budget:

> The Accelerated Power Development and Reform Programme (ARDRP) is an *important programme* for reducing the gap between power demand and supply. I propose to increase the allocation for this scheme to Rs. 2,080 crore, *a steep increase of 160 per cent* above the allocation in BE 2008-09.

Sounds very impressive, doesn't that? "A steep increase" of 160 per cent. Only as long as we forget that the programme actually requires

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[1] *Eleventh Five Year Plan, op. cit.*, Volume III, p. 349.

between Rs. 80,000 crore to 1 lakh crore, i.e., Rs 16,000 to Rs. 20,000 crore per year.

The problem is generic. The rule of thumb is that investment in generation/transmission/distribution should be in the ratio 1:0.5 : 0.5. Over the decades, the latter two have been neglected. The Plan posits additional generation capacity of 80,000 megawatts: at Rs. 5 crore a megawatt, that is Rs. 4 lakh crore. Rs. 2 lakh crore will be required for transmission; Rs. 2 lakh crore for distribution. Plus, to meet continuing losses of State Electricity Boards, and to make up for the neglect till now of investment in transmission and distribution, we will need another Rs. 4 lakh crore. On a rough estimate, thus, the 11th Plan targets require an investment of about Rs. 12 lakh crore. Against this, the available resources are about a half of this figure. And given the pace at which projects are being executed, it would seem that we will not be able to add more than 40,000 megawatts in the Plan period. The gap between demand and supply of power at the end of the 11th Plan will be *larger* than at the beginning.

This is the reason that brave announcements are made. But what happens in the ensuing months is that the Government then sets up another committee of experts. To operationalize the recommendations of that committee of experts, a committee is set up. That committee sets up a subcommittee . . . A symptom.

The real problem

In another of his delicious pieces,[1] Bibek Debroy recalls the recommendation of an important Report:

> There is need for carrying out organizational changes in the existing set-up of the machinery of government. This is so because there is insufficient coordination in the framing of policies and plans and inadequate speed and efficiency in the execution and these are relatable to faults in the set-up . . . It is necessary to bring about such changes in machinery and procedure as would render the process of expenditure sanction more intelligent, well-informed and speedy, and thereby remove the sense of frustration which afflicts, at any rate, several ministries and departments at present; and, at the same time, to tighten up the process of budget control of expenditure, and to promote economy-consciousness and sense of financial responsibility throughout all administrative departments. These are the really effective safeguards against extravagance.

[1]Bibek Debroy, "Re-reading the future," *The Indian Express*, 9 June 2009.

Debroy recalls another recommendation which, he observes, is perhaps even more relevant today:

> This feeling is intensified by a fairly general belief in the lack of integrity of many of those in high position . . . No government, least of all the Government of India, at the present juncture, can afford to proceed on the basis that it is better to attempt many things than to achieve a few. If it does so attempt, it must dissipate its energies and resources to little purpose. The basic things are food, clothing and shelter. It is not suggested that the government should abjure all other activities until these objectives are fully gained, but it does seem that today, after providing for the legitimate requirements of external and internal security, the most important task of government is that which falls within the economic sphere . . . There are undoubtedly many other activities in which a modern government is to take part and these cannot altogether be ignored, but the effort and expenditure in men and money on these must obviously not be such as to prejudice the fundamental task, for, if this fails, everything else must also fail.

Alas! Bibek Debroy reminds us that these recommendations are not from one of the numerous recent commissions and committees on administrative and financial reform—among these being the report of the National Development Council on Austerity (1992), the Expenditure Reforms Commission (2001), the Surendra Nath Committee (2003), and the Committee on Civil Service Reforms (2004). In addition, there had been the reports of successive Pay Commissions each of which also enumerated what needs to be done in regard to governmental working. And now we have 12 reports from the new Administrative Reforms Commission. The recommendations reproduced above are from the Report on Reorganization of the Machinery of Government prepared by N. Gopalaswami Ayyangar in 1949, and from the Report on Public Administration submitted by A.D. Gorawala in 1951 respectively! Debroy also records that on a rough count, the Prime Minister mentioned the need to improve governance 255 times and the imperative of administrative reforms 48 times in his first innings as Prime Minister!

This is the real problem—in governance, in budget making, in executing projects, in implementing schemes and programmes. Where something has to be actually done, the progress is not what it should be; recall the instance of the Rajiv Gandhi Gramin

Vidyutikaran Yojana that I have documented while discussing the Interim Budget that Pranab Mukherjee had presented: instead of the 2,35,000 villages that were to be electrified, in fact 54,000 villages were electrified; instead of the 7.8 crore households that were to be provided electricity—a commitment that was rewritten to read as providing "access to electricity" to all, then of providing "access to electricity" to households Below the Poverty Line—on the Government's own estimates, electricity connections have been provided to only 43 lakh households. Forget for the time being, the number of hours for which they get electricity.

Achievements are impressive only where money has to be cast out: as in NREGS, etc. And when the Comptroller and Auditor General or the media show what is actually happening under these programmes, the reflex response is, "O, but implementation is the responsibility of the states."

A few years ago, Chidambaram announced to dramatic effect that ministries had been asked to prepare, "Outcome Budgets". He told the Parliament that, in fact, some ministries had already started preparing such budgets. It is difficult to find out today what happened to this species of budgets.

But there is one "dog that didn't bark" this time round. You will recall the fanfare with which Chidambaram had introduced the document, *Implementation of Budget Announcements* in the set that formed a part of the Budget package. He had said in his preface to each document that it had been introduced to ensure transparency and accountability, values to which the UPA is deeply committed. All the other documents have been distributed this time also with the Budget, save this one! Is it that

- ❒ Accountability and transparency have been fully ensured? Hence, this document is no longer needed?
- ❒ Is it that the document was not really ensuring either?
- ❒ Or is it that the document had become an embarrassment?

The reason why

Two fashions have come to dominate budget speeches in the last few years. Instead of spelling out an architecture for economic or even financial policy, the speeches are just an enumeration of

specific programmes on the one hand, and of changes in rates of sundry taxes on the other. Second, the programmes that are announced are of the "welfare", truth to tell the populist kind—the fashionable word currently for them is "inclusiveness". And on these also, the announcements that are made, and which trigger the obligatory table thumping, are only of outlays.

There are several reasons for this, none of them lofty. Ministers seldom aspire to recast architectures. Outlays are sufficient to secure cheers from Members of Parliament, and, presumably, the voters. Finally, and that explains a good deal, industrialists get their way in the fine print of back pages—an excise duty decreased by two per cent, a levy "clarified" one way rather than another: these changes almost never make it to the news pages, and yet each of them spells hundreds of crores to this group or that.

As there has been no evidence at all of the implementation of the schemes improving, I have not been able to muster enthusiasm for the new ones that have been announced in each Budget. Such enthusiasm as there might have been has been further dampened by two factors.

First, specific programmes like disinvestment and those that aim ostensibly at development of minorities retain all the worst features to which attention has already been drawn earlier. Disinvestment is being done solely to plug some of the deficits; schemes and programmes are being based on religion. Second, the patent subterfuges that have become the order of the day persist in this Budget also. Ever so often, a "major" initiative has been announced in the form of some huge new programme. When you study it, the "new" programme turns out to be little more than a clubbing together of five existing schemes. Just as often, when five new and bold "initiatives" are announced, they turn out to be five components of one large scheme that was going on for years and has now been split into five . . .

The typical great initiative of this Budget is the promise to institute a Food Security Act. "I am happy to announce," Pranab Mukherjee tells Parliament, "that work on National Food Security Act has begun in right earnest. This will ensure that every family living below the poverty line in rural or urban areas will be entitled by law to 25 kilos of rice or wheat per month at Rs. 3 a kilo . . ."

Every little help to the indigent is welcome. But a few points should be noted.

In Budget after Budget, Chidambaram stressed that the loopholes in the Public Distribution System had to be plugged. In Budget after Budget he announced pilot programmes to plug them. Food stamps in one. A pilot project using smart cards in another. There is no reference to improving the Public Distribution System in this Budget. It goes for the much grander idea of the Food Security Act.

My erstwhile colleague, the agricultural economist and commentator, Devendra Sharma reminds us that on paper 316 million are already covered by the Public Distribution System. To the 65.2 million families assessed to be living Below the Poverty Line, on paper the Government already provides 35 kg of foodgrains every month: wheat is provided at Rs 4.15 per kg, and rice at Rs 5.65 per kg. Among these, there are the 24.3 million Antyodaya families—the poorest among the poor, so to say—who are provided wheat at Rs 2 per kg and rice at Rs 3 per kg.

Yet, on the Global Hunger Index[1], India is ranked as number 66 out of 88 developing countries. We are in the "alarming" category. To our great shame, we rank below countries such as Albania, Turkmenistan, El Salvador, Gabon, Guyana, Armenia, Azerbaijan, Uzbekistan, Honduras, Bolivia, Dominican Republic, Mongolia, Nicaragua, Ghana, Lesotho, Namibia, Guatemala, Senegal, Uganda, Gambia, Swaziland, Botswana, Togo, Nigeria, Cameron, Republic of Congo, Kenya, Sudan, Lao PDR, Nepal, Djibouti, Guinea, Pakistan Malawi, Rwanda, Cambodia, Burkina Faso . . . to say nothing of China and others.[2]

Furthermore, using the same methodology and relying on official data, three Indian researchers have compiled indices for Indian states. These show that the best performing Indian state, Punjab,

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[1]Prepared by the International Food Policy Research Institute, Washington D.C, Welthungerhilfe, Bonn, and Concern Worldwide, Dublin, the index is based on three equally weighted indices: proportion of population that is undernourished; the proportion of children under 5 years who are underweight; and the proportion of children who die before reaching the age of five.

[2]*Global Hunger Index, The Challenge of World Hunger 2008,* International Food Policy Research Institute, Washington D.C, Welthungerhilfe, Bonn, and Concern Worldwide, Bonn, 2008, pp. 17, 20.

would rank as number 34 among countries. West Bengal would rank 60. Jharkhand would rank 76. Madhya Pradesh would rank 87.[1]

Do these twin facts—that a third of our people are already covered by the Public Distribution System on the one hand, and such a shameful ranking on the other—not awaken us to the fact that what needs to be done is quite different from passing yet another law?

But another law it is. And another slew of programmes. And on them, allocations as accomplishments.

I will hail such programmes only when additional allocations are made, at least in part, *contingent on improvements in implementation*, at least in part on *improved scores on indices such as* the ones covered by the Global Hunger Index.

The customary artifice

As the expenditures have gone out of hand, and the fiscal responsibility targets to which the Parliament had committed itself under the FRBM legislation have been violated, ever-new rationalizations are being proffered for those expenditures. As the economic slowdown is on everyone's mind, this year's Budget dragoons that slowdown to excuse the expenditures. In his Budget speech, Pranab Mukherjee puts the rationalization as follows:

> *To counter the negative fallout of the global slowdown on the Indian economy,* the Government responded by providing three focused fiscal stimulus packages in the form of tax relief to boost demand and increased expenditure on public projects to create employment and public assets. The RBI took a number of monetary easing and liquidity enhancing measures to facilitate flow of funds from the financial system to meet the needs of the productive sectors.
>
> *This fiscal accommodation led to an increase in fiscal deficit from 2.7 per cent in 2007-08 to 6.2 per cent of GDP in 2008-09. The difference between the actuals of 2007-08 and 2008-09 constituted the total fiscal stimulus. This fiscal stimulus at 3.5% of GDP at current market prices for 2008-09 amounts to Rs. 1,86,000 crore.*

My friend, S. Gurumurthy asks me to look at the first page of the Revenue Budget and at the tenth page of the Expenditure Budget:

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[1] *India State Hunger Index, Comparisons of Hunger Across States,* International Food Policy Research Institute, Washington D.C, Welthungerhilfe, Bonn, and Concern Worldwide, Bonn, 2008, in particular pp. 15-17.

out of the proclaimed "stimulus" of Rs. 1,86,000 crores, over Rs. 1,30,000 crores—that is more than 2/3—consist of

- fall in income tax collections (Rs. 20,000 crores)
- outlays occasioned by the 6th Pay Commission dues (Rs. 40,000 crores)
- fertilizer subsidy (Rs. 45,000 crores)
- food subsidy (Rs. 11,000 crores)
- farm debt waiver (Rs. 15,000 crores) and
- extra interest on borrowings (Rs. 2000 crores).

None of these items is related to the "stimulus". The fall in income taxes and at least a part of the fall in excise and customs duty collections are a result of the meltdown; they are far from being the result of steps by Government not to counter it. And the excess outlay in the Revised Estimates for debt waiver, the 6th Pay Commission, and subsidies are the result merely of the fact that, as we had pointed out at the time, the 2008-09 Budget had not provided funds for the commitments it had made! The explanations in the Expenditure Budget document leave no doubt in this regard.

Gurumurthy points out that the story is no different in regard to the claim being advanced about the stimulus that is being provided through extra expenditures in the current year. Out of the additional expenditures of Rs. 1,20,000 crore proposed in the 2009-10 Budget over the previous year, Rs. 97,000 crore are accounted for by

- dues occasioned by the 6th Pay Commission: Rs. 44,000 crore;
- additional interest payments: Rs. 33,000 crore;
- non-Plan grants to states: Rs. 10,000 crore;
- contribution to IMF and loans to Public Sector Undertakings: another Rs. 10,000 crore.

It is only because of the fall in fertilizer subsidy and allied items by Rs. 29,000 crore, that this gross extra expenditure gets reduced to Rs. 78,000 crore. Not a single rupee out of this is stimulus to counter the slow down.

But, as we have learnt from earlier analyses of budgets, *suggestio falsi* of this kind has become an intrinsic part of budget making and presentation over the last few years. Recall how in the Interim Budget that he presented in February 2009, Pranab Mukherjee

maintained that the FRBM targets were being deferred in view of the global economic meltdown: I had to draw attention then to the fact that Chidambaram had already declared in the previous Budget that those commitments were being set aside because of the Government's determination to push projects required for inclusive growth!

Deficit and its consequences

During the discussion on the Interim Budget in response to what persons like me said about the levels to which the deficit had been pushed, the Prime Minister, with his great authority in these matters, said that this is a year in which no one is worrying about deficits.

But, as the figures I have just recalled show, the deficit has not risen because of the special measures that have been taken to tackle the situation this year. Shankar Acharya, the former Economic Advisor to the Government and other commentators remind us that it has ballooned because current expenditures have been allowed to run out of control. In absolute terms, the Centre's Revenue Deficit has increased to more than five times what it was in 2007-08. As a proportion of the GDP, it is 4.5 times what it was. This has happened because revenue expenditure has increased more than Rs. 3,00,000 crore, and tax revenues have risen just Rs. 35,000 crore or one-ninth of the increase in revenue expenditures.

Most of this increase in expenditure has come about for interest payments, defence, salaries, subsidies, pensions, "social programmes" like the Rural Employment Guarantee Scheme and Bharat Nirman. Shankar Acharya rightly emphasizes, *these are not temporary fiscal stimuli*. None of these is going to be easy to reverse.[1]

While all these extra expenditures are being incurred in the name of "inclusive growth", the fact is that they leave the economy no stronger for tomorrow: not in terms of capital assets, not in terms of better skilled human capital, not in terms of green infrastructure.

Even a few points are sufficient to bring home what is happening:

- Just 140 days ago, the deficit was estimated at 5.5% per cent of GDP. Persons like me had pointed out in Parliament that the

[1]Shankar Acharya, *Business Standard*, 9 July 2009.

figure was gross underestimate. Just a few weeks later, the figure is being put at 6.8%. When we add the shortfall in the budgets of states—4% of GDP—and oil and fertilizer subsidies, the total deficit shall be in the range of 11–12 per cent of the GDP. I cannot think of a Finance Minister of a country like India, with the rigidities that bind expenditure promises of our governments, being at ease with that kind of a figure.

- During discussions on the Interim Budget, it had become obvious that the Government's profligacy had made Government borrowing of Rs. 3,60,000 crore unavoidable in 2009-10. Within 140 days, this has swelled to Rs. 3,97,000 crore. States will borrow another Rs. 1,50,000 crore or so. This is *four times* higher than that envisaged in the 2008-09 Budget.
- Commentators point to another figure that should be set against the deficit of 11 to 12 per cent of the GDP: household savings are about 12% of the GDP. The current level of Gross Fiscal Deficit leaves little room for borrowing by the private sector, the very sector on which governments are now depending not just to execute infrastructure projects but also to finance them from the market. What is the magic by which the Finance Minister and his officials expect to finance Government borrowing without squeezing out the private sector from the market? Furthermore, this level of Government borrowing will result in higher interest rates, and thereby dampen the atmosphere for private investment which Government says it is determined to stimulate.
- We must also bear in mind how this kind of ballooning current expenditure is squeezing room for maneuverability in the future:
  - Taking debt servicing alone, 94% of Gross Revenue Receipts are exhausted in meeting just this single, unavoidable obligation;
  - Debt servicing alone is 120% of Net Revenue Receipts of Centre;
  - These and other unavoidable expenditures are eye-openers:
    - Interest payment and prepayment of premium: Rs. 2,25,000 crore;
    - Subsidies: Rs. 1,13,000 crore;
    - Pensions: Rs. 35,000 crore;
    - Salaries: Rs. 88,000 crore;

- Revenue expenditure on Defence: Rs. 1,11,000 crore;
- Revenue expenditure on police: Rs. 25,000 crore;
- Repayment of debt: Rs. 3,43,000 crore.

These total to 55 per cent *more than* the Gross Revenue Receipts of the Government.

They are *twice* the Net Revenue Receipts of the Centre.

We must also ponder the question to which I have drawn attention earlier. We are fixated on the British practice of budget making: secrecy, presentation, approval—a mere one Rupee cut is supposed to cause the Government to fall. But what exactly is the Parliament approving? How do the amounts it approves compare with what actually transpires through a year? Consider the magnitudes that were originally approved by Parliament for 2008-09, and the Revised Estimates that we see in the Budget document now:

	*Budget Estimates**	*Revised Estimates**
Revenue Deficit	55 [1.0%]	241 [4.4%]
Fiscal deficit	133 [2.5%]	326 [6.0%]
Primary deficit **	–57*** [-1.1%]	134 [2.5%]
Borrowings	133	326
Non-Plan expenditure on Revenue Account	448	562

Note:

*Rs. '000 crore; [per cent of GDP].

**Fiscal deficit minus interest payments.

*** That is, it was to be a surplus.

And these are just the Revised Estimates. Going by the well-established record of the past, the final figures will be much worse.

As the bells have been sounded on the extent of deficits that he has provided in the Budget, the Finance Minister has been saying that

the Government *will* return to the FRBM targets. Yet it is not at all clear, certainly not from the generalities that he has presented in the *Medium Term Fiscal Policy Statement* that he has circulated with the Budget. The fact is that the tenor of expenditure announcements remains thoroughly populist, even in the first year of the Government's new tenure. Two years hence, it will be that much closer to the next elections . . .

Hence

- ❒ Act on the resolve that you have stated, namely, to get back to the discipline of the FRBM legislation;
- ❒ In particular, rein in current expenditure;
- ❒ Examine closely what is being done in the name of "inclusiveness";
- ❒ Expedite implementation—remember that this is not going to be ensured by yet another queue of committees headed though they may be by the Prime Minister himself;
- ❒ Resume Reforms;
- ❒ Aim at a new architecture—for instance, take steps to tax commodities, activities, consumption by the draft they make on non-renewable resources, by their ecological footprint;
- ❒ Take the people into confidence—about the real state of governmental finances and of the real outcomes of governmental programmes; that alone will prepare the ground for stepping off this down-escalator.

11.

A relic that should have been swept away And replaced decades ago

Technology is advancing, and with it our life and environment are changing at an exponential rate. By collating evidence about advances in several key technologies, Ray Kurzweil shows that the exponent itself is increasing; and that by 2045 or thereabouts, the "singularity" would have arrived. Artificial intelligence would have overtaken merely biological, human intelligence many times over; the evolution of technology would have merged with biological evolution, and so, not just the capacities of our bodies but those of our brains would have been enhanced manifold by the merger with "machines". Within this short span of just thirty-forty years, the GNR technologies—Genetic, Nano and Robotics—would have so transformed life, and so accelerated the pace of change that even the most daring futurists like him are not able to foresee how things will shape up after that: machines would have been taught to, on their own, conceive, design and bring into being the next step in their evolution, that is to manufacture machines more intelligent than their own generation, and to go on doing so; and they would be fully fused into human beings—with humans having many artificial implants and the machines having become much more "human". That is not science *fiction,* it is science.[1]

A world of this kind is said to be just thirty-forty years away. Consider just two questions. How will we stand up to countries that forge such technologies and, by then, would have equipped themselves to take advantage of the advances and brought into being humans with enhanced physical and mental capacities, if a third of our children go to bed hungry, and are so malnourished that their mental capacities are impaired?

Based on a lecture delivered at the commencement of the 50th Anniversary Celebrations of the Indian Institute of Technology, Kanpur, August 2009.

[1]See, for instance, Ray Kurzweil, *The Singularity is Near,* Penguin, New York, 2005.

Next, remember that those who are entering the labour force in our country today will be working till 2060. Those who are being born today will be working till 2080 and beyond. Is our system of education, in particular of higher, technical education preparing them to compete in that kind of a world?

Even if we keep our focus narrow, that is, only on the learning environment; even if we narrow it even more and focus only on institutions of the kind whose Golden Jubilee we have gathered to celebrate, the IIT, Kanpur, we cannot but see that the learning environment, the environment in which such institutions have to impart knowledge is already changing drastically, and would soon have changed out of recognition.

Our system is still obsessed with imparting information, and trapping students into revealing what information they have forgotten. But soon, youth will be able to just speak into their sleeves or watches and get that information; they will be able to "get it off the wall"—for the devices through which information may be accessed will be built into clothes, personal accessories, walls and the rest. They will be able to get the standard version of the information on any issue, of course; in addition they will be able to access with as much ease the contending views on the question at hand. They will be able to hear and read directly what the best authorities on the subject have to say on the matter. Not just the storage and retrieval of raw information, but much of the processing of it, discerning the patterns in it, executing logical and other operations with it would have been relegated to those ubiquitous, inexpensive devices. Forecasters write of "a coming explosion in high-quality, freely available knowledge"—freely available in part because it has been created voluntarily: the way so many have contributed anonymously, freely, altruistically to building Wikipedia and Linux are ready examples. Both Wikipedia and Linux also exemplify how in the coming years, the distinction between producers and users of knowledge will blur. Educationists and forecasters write of teaching and learning communities forming spontaneously—communities of persons working on specific questions, of those teaching and those doing specific "courses" at a given time: social groups formed *via* Facebook are precursors. Forecasters and educators speak of a total change in the way things will be taught: instead of the lecture, students will be put through "immersive three-dimensional virtual

environments" in which they would be able to visualize and experience what a chemical or an equation implies: the gaming industry, they point out, is giving us the first, rudimentary glimpses of how the student will learn by immersing himself in the environment that the subject implies . . .[1]

Forget the students, are those running our universities, even our IITs and IIMs preparing for such changed learning environments? Preparing in both senses. On the one hand, preparing to offer ever-newer experiences and knowledge and ways of dealing with the world and life that the students just cannot get by "talking into their sleeves". When the institutions are not adapting themselves to provide knowledge in these new ways, and knowledge that students cannot get for the asking on their own, why would students twenty years from now struggle to get into these institutions? And, on the other, are they preparing to take advantage of the new opportunities that will emerge from such access to information, to the best in the field anywhere in the world, from the availability of such "immersive experiences"?

Is the regulatory superstructure—institutions such as the University Grants Commission and the All India Council for Technical Education, and the Ministry that controls them all—even thinking about these imminent changes? Will it embrace the changes? Or, like the institutions that arrested manufacturing development—the DGTD, the CCI&E, the ministries—block change?

Will things elsewhere stop or even slow down because our regulators have slowed them down in India? As change elsewhere will proceed anyhow, what will blocking it in India do to our comparative strength?

The existing position

We keep saying, "We have the second largest reservoir of scientific and technical manpower in the world." True, the absolute numbers are large. But, even if we leave aside the consideration

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[1]For the foregoing and for many other dimensions of things that are already on the way, see the sparkling volumes associated with *The Edge* annual question. For examples of the kinds of changes in the learning environment referred to in the text, see Roger C. Schank, "Are we going to get smarter?," in John Brockman (ed.), ***The Next Fifty Years, Science in the first half of the twenty-first century,*** Wiedenfeld and Nicolson, London, 2002, pp, 206-15.

that numbers are not what determine the outcome in this sphere, the fact is that there is an acute *shortage* of skilled manpower in our country. This is evidenced by the high turnover of personnel even in our best companies. It is evidenced in the astronomical salaries that even beginners were being given in Information Technology and other professions—even journalism—till the present, temporary slowdown. It is evidenced by the sub-optimal use of such professionals as we produce: Mr A.M. Naik, the head of Larsen and Toubro, exclaims of the IT industry, "You are stealing my engineers"—in that, students who have put in five years to acquire the skills and knowledge to be engineers are lapped up by the IT industry with its higher salaries, and placed in jobs which do not use their skills and knowledge to their potential.

This shortage is certain to get worse. We are growing at rates substantially faster than in the past. Moreover, as growth proceeds, it becomes more skill-intensive: in the United States, for instance, till the current collapse, employees with science and technology background were growing at rates that were three times the rate of growth of employment in general.

There is another factor—the world beyond our shores. The population in over 30 of the richer countries is *declining*. Russia is a vivid example: it spans 11 time zones; its population has already fallen below that of Pakistan. Japan, Italy, Spain are losing numbers at a precipitate pace. Moreover, the populations in these countries are ageing: the dependency ratios are rising. Even more important from our point of view, the shortfall of skilled personnel in those countries—even in the United States, the country whose population is not declining—is growing rapidly. Before the current downturn, in the United States alone, the shortfall of skilled personnel, estimated at 5 million in 2005, was forecast to *triple* by 2010.[1] For each of these reasons, they will be seeking personnel from countries like India in even larger numbers than in the past.

There is an even more ominous trend that is liable to hit us where we are even more vulnerable. Consider the United States alone. Even though in countries like the United States, they work till later in

[1]For forecasts of the Bureau of Labour Statistics and other agencies, and some of the factors listed in the text, see, for instance, Richard Florida, *The Flight of the Creative Class, The new global competition for talent,* Collins, New York, 2007.

life—those with MAs and Ph.Ds work up to 65 and 70 years of age—there is a marked dearth of skilled and qualified persons in knowledge-intensive professions. The 2008 *Science and Engineering Indicators* reveals that, of science and engineering degree holders in the United States labour force, 38 per cent in Physics, 35 per cent in mathematical sciences, 32 per cent in Chemistry are over 50 years.[1] They will be retiring in the next 15 to 20 years. But sciences such as these are precisely the disciplines that are vital to our future—for defence, to take just one instance. They are precisely the disciplines in which enrolment in India for the higher degrees has been falling at an alarming rate. The stronger pull from countries such as the United States with their deep pockets, on the one hand, and our dwindling numbers in the higher reaches of such disciplines, on the other—what do the two trends portend? Is our education system gearing up for this pincer?

Even numbers are a formidable difficulty. And yet they are the least of the problems we face in this area.

The transformation

It is not long ago that a degree was just one of the qualifications for a job, and a secondary one at that. The degree itself meant that the person had learnt a wide range of skills—including the skills and the urge to go on learning more. The examination tested the person in a comprehensive way: the ability to gather and organize information, to sift the vital from the chaff, the ability to express himself.

Over the decades, two things happened: numbers exploded, and the authorities in charge of assessing the examinees lost legitimacy. In turn, these two changes led to two further changes: the degree acquired a significance beyond its worth; and the character of examinations changed to objective type of questions with "yes" or "no" answers. Questions in which all the examinee had to do was to tick one of three or four alternatives became the norm. Piles and piles of answer sheets could be assessed mechanically and in little time; and, as there was no need for subjective evaluation, the examiners could not be accused of bias. Colleges and universities became

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[1]National Science Board, *Science and Engineering Indicators, 2008*, Arlington, Va., Volume I, 3.45-46; Volume II, Appendix A5.

factories for producing degree-holders. And they began giving out degrees by assessing examinees on criteria that had less and less to do with genuine learning.

As the sole object was to enable students to go out holding a degree, the syllabus, the teaching methods, the teaching itself came to be tethered to that eventual piece of paper. Simultaneously, an entire industry grew up to train students to pass the exams: ***koonjies***, coaching classes, entire institutions, and now entire towns like Kota in Rajasthan came up to train students to get through the exams. The recent report of the Yashpal Committee on higher education sets out the result precisely:

> At present, the design of curriculum and syllabi is reflective of the entrenched examination system under which the student is asked to face the question paper at the end of the year, or in some universities, at the end of the semester. This archaic examination system, ostensibly used as a means of certifying the ability of students, unfortunately does not really test the kind of skills they require to be successful in either the pursuit of pure theoretical knowledge or in practical real-world situations . . . Similar to what happens at the school level, University-level evaluation practices also simply broaden the scope of memory-based questioning, with the occasional rote-based 'application' question masquerading as real-world problem solving . . .[1]

"Democratic" pressures worked from the side of the students also: in some states, students went on rampage protesting efforts to rein in cheating; in some states, there are "question banks"—teachers are to teach only those things that the students need to answer that particular set of questions, and authorities cannot set papers with questions that lie outside the "banks"!

The spiral has descended to the predictable floor: institutions have come up that enroll persons for "guaranteed degrees"—that is, you pay the going price, and do no more: the institution will fill up requirements such as attendance, and arrange respectable, even enviable scores in the requisite exams; it will find persons to write

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[1] ***Report of the Committee to Advise on Renovation and Rejuvenation of Higher Education***, (the Yashpal Committee), 2009. This Committee was set up even as the Knowledge Commission was at work. With Mr. Yashpal as its chairman and 23 other members, the Committee worked for more than a year. It reports that it had extensive discussions with over 1000 academics and other "stakeholders".

your "thesis"; and it will arrange persons, "authorities" in the subject, who will certify to the excellence of the thesis; and you will have your doctorate.

Mercifully, such institutions are not the norm as yet. But that they have come into being, that they flourish, that they are talked of openly and yet nothing can be or is done about them is the portent.

Where the standards now are even in institutions that are not as solicitous is evident from scores of indices. Consider, for instance, what the Yashpal Committee, which we just encountered, says: it estimates that there are at present about 20,000 colleges in India; of these, it is able to regard just 1,500 as being "very good with a rich history, strong infrastructure and a large body of students."

The other indication comes from what the firms that take the graduates of these institutions do: more and more of them across sectors find it necessary to put the graduates through training and education in courses stretching up to a year before giving them work. And training and education not merely in some specialized subject that they would require in the assignment to which they are going to be deputed—for example, Swahili for a young man who is going to be posted in East Africa; but instruction in subjects that he has been through in his formal education in universities and the like.

In the same way, it really is a shameful reproach that just three or four of our institutions of learning figure in lists of the best 200 or the best 500 institutions of higher learning. In the widely used Times Higher Education ranking for 2009, of the top 200 universities of the world, only two of our institutions figure: the IIT, Bombay, at the 163rd position, and the IIT, Delhi, at place 181. By contrast, the National University of Singapore ranks at 30th place. Of the top 200 universities, 55 are of the United States; 29 of the United Kingdom; 11 of Japan; 11 of Canada; ten of Germany; nine of Australia; seven of Switzerland; six of China; five each of tiny Hong Kong, Belgium and Sweden; four each of France and South Korea figure. Even Israel and New Zealand have three each.[1] Going further down, IIT, Kanpur, IIT, Madras, the University of Delhi and the IIT, Kharagpur, come through at ranks 237, 284, 291 and 335 respectively.

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[1]QS Intelligence Unit, http://www.topuniversities.com/university-rankings/world-university-rankings/2009/results.

Only two Indian institutions—the Indian Institute of Science and the IIT, Kharagpur—make it to the equally widely used ranking of the top 500 institutions prepared by Shanghai Jiao Tong University. And they rank as 316 and 317. By contrast, 54 institutions from the United States; 11 from the United Kingdom; six from Germany; four each from Japan, Canada and Sweden; three each from Switzerland, France and Australia are in the first 100. Even Netherlands and Denmark have two each in that list. Finland—a country with a total population of just 53 lakh; that is, a population which is just about a third of the population of Delhi alone—has one university in the top 100. Of the top 200, 90 are from the United States; 22 from the United Kingdom; 14 from Germany; nine each from Japan and Netherlands; seven from France; six each from Australia and Canada; five from Italy. Belgium has four; Israel has three; even tiny Singapore and Taiwan have one each, and so do many other countries, but we have none. If we enlarge the universe to the top 500, 17 institutions from China, seven from Taiwan, six from Israel, five from minuscule Hong Kong are in the list. By contrast, as we noted above, just two of our institutions figure.[1]

And institutions like the IITs and IIMs are the tiniest of tiny islands. The total enrolment in the 17 IIT-type institutions[2] in 2009 is a mere 8,295. The six IIMs have an enrolment of just about 3,500. These figures represent a microscopic portion—0.08 per cent, to be precise—of the total enrolment in our colleges and universities.

Second, these institutions of excellence make almost no contribution to research. A sympathetic observer, one who would like the IITs and IIMs to make better use of their infrastructure and teaching resources draws attention to a telling fact. So little do the faculty publish that, in making its recommendations, the Review Committee which examined the working of the IIMs in 2008 urged that the faculty of established IIMs—those of Ahmadabad, Bangalore and Kolkata—aim at publishing at least 10 papers a year in the 25 leading journals; that between them, the faculty of IIMs at Indore, Kozhikode and Lucknow aim at publishing five papers a year in these journals; and that the faculty of each of the new IIMs that are

[1] http://www.arwu.org/rank2008/en2008.htm

[2] 15 IITs+IT-Benaras Hindu University+Indian School for Mines, Dhanbad

being contemplated aim at publishing one paper a year in these journals.[1]

Third, these tiny islands are now constantly preoccupied just trying to ward off the attempts of successive ministers and their ever-eager civil servants to interfere in their functioning. The number of students they may take in; the fees they may charge; reservations of seats for students by birth; the pay and allowances of the faculty; whether they may set up campuses abroad . . . each of these has been used as a lance by ministers and bureaucrats to direct and control them.

The even greater threat that these tiny islands have been facing comes from the general assault on excellence. Each time a minister or civil servant concludes that those directing these institutions are not obeying his diktat, he triggers propaganda assailing them as being elitist.

A single institution will illustrate the contrast. It is just about 20 years ago that the Singapore National University was formed by merging the University of Singapore and the Nanyang University. Soon thereafter, the country's leadership decided that the new University must strive to become among the best in the world. The result? In the Times Higher Education rankings that we encountered above, the Singapore National University, as we saw, ranks as number 30. That holds the first lesson: institutions *can* be transformed into being among the best. The second fact shows the contrast as well. Recently, a minister flexed his muscles and showed how powerful he was by killing the plans of one of our IIMs to open a campus abroad—something to which the institution was driven in the first place by the extreme efforts that were being made to breach its autonomy. In 2001, the Singapore National University launched NUS Enterprise to promote and nourish entrepreneurship. One of its first initiatives was to establish colleges in entrepreneurial hubs around the world to help its students acquire a global outlook. By now, the NUS has established overseas colleges and programmes in Silicon Valley and Bio Valley in the United States, in Beijing and

[1] *Report of the IIM Review Committee, Negotiating the Big Leap*, Ministry of Human Resource Development, New Delhi, September 2009, paras 3.6-7, 20 and 26. Also, Sanjay Mishra, "Need to improve the IITs and IIMs," *Economic and Political Weekly*, 25 July 2009, pp. 17-19.

Shanghai in China, in Stockholm in Sweden and, of all places, in Bangalore—even as in India we continue to debate whether our institutions should be allowed to set up campuses abroad, even as we continue to debate whether foreign institutions should be allowed to set up campuses in India!

The relic

The assault on standards and norms, on excellence, and thence on the few institutions of excellence that we still have is a fallout of, and remains as a hangover from the socialist mindset that held the country in its vice till the late 1980s. The breakdown of 1990-91 in the external account liberated the manufacturing sector from the institutional manifestation of that mindset, the license-quota-permit *raj*. The modern services sector, in a sense, grew up in the wake of that dismantling of the license-quota *raj*, it grew up under the radar of the governmental machinery, and thereby escaped its vice. But among the sectors that have continued to remain in the grip of that mentality and *raj* are higher, technical education and defence production.

One ingredient of that "ideology" was, of course, an exhibitionist egalitarianism. Higher education is elitist; the country must focus on universal literacy, on primary education—that was one lemma. And thence the subsidiary lemmas. The institutions of higher learning are elitist. The standards that they say they must maintain are actually devices to exclude the vast sections of society that have hitherto been excluded and exploited. This kind of posturing became the staple of the rhetoric of politicians, of course. It also found its way into judgments of the highest courts of our country.[1]

Egalitarianism was one manifestation of the "socialist" ideology. There were four other predispositions—indeed, axioms—of the ideology that were to have, and to this day continue to have disastrous consequences for higher, technical education.

First, the State is the one that should provide education in general, and higher, technical education in particular. Second, exceptions

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[1]One set of judgments in which such "progressive" declamations became *de rigueur* were the judgments that enlarged the ambit of caste-based reservations in directions and to an extent that was never contemplated by the makers of the Constitution. They are dealt with in my *Falling Over Backwards, An essay against reservations and against judicial populism*, ASA, Delhi, 2006.

apart, as a rule, private entrepreneurs and philanthropists should *not* be allowed into the sector—their only objective in entering this sector will be, as it is in other sectors, profiteering, and we should not allow *Ma-Saraswati* to be made a commodity of. Third, the way to meet the paucity of educational opportunities, as of, say, steel in those days, is for the State to ration and allocate—and the way for the State to do so is through quantitative restrictions, for instance by reserving seats by birth, by residence, etc., exactly as it was in regard to steel or coal or foreign exchange. Fourth, the way to eliminate such ills from the sector as may break out is for the State to regulate—each time some new ill has erupted into public view, the unvarying response of our governments has been to pass a stricter and more detailed law, to prescribe yet another level of scrutiny, to set up yet another oversight body, and to confer even greater powers on that body: that too is exactly what the sequence used to be in regard to manufacturing.

The results have been predictable. The State could not, or did not, spare sufficient resources—and not just financial resources: the Ministry of Human Resource Development came to be yet another parking place for the politician who could not be accommodated in one of the principal ministries.[1] Second, private entrepreneurs and philanthropists were not allowed to invest in education. Third, fees were fixed by decree. As they were fixed by decree, raising them became a political problem: their eyes fixed on the next election, governments just could not raise them. Fourth, as universities, and even the IITs and IIMs were in effect limbs of the State, as they were departments of government at one remove, there has been no question of allowing them to raise resources by themselves: it is no surprise, for instance, that the plans of several alumni of the IITs to mobilize resources for their *alma mater* have had to be abandoned because, were the IIT in question to receive amounts of the orders that were being contemplated, it would lose all access to governmental assistance. Finally—and in spite of the fact that the IITs themselves had been set up with collaboration of institutions abroad and are a standing refutation of the miasmas that are conjured up regarding the consequences that will befall the country were

[1]Though, if truth be told, that is not unique to the education sector: most ministries have become parking places!

foreign participation to be allowed—foreign universities have been kept out of the sector almost completely. The last bar has been rationalised on two grounds—like the private entrepreneur or philanthropist, the foreign university that comes in will come only to fleece our students, to profiteer; and this is not just *any* sector, it is the crucible in which the minds of our young are moulded—foreigners will come and corrupt our youth, they will pervert our heritage and values, they will drain our young of all commitment to the country. Inviting them would not be to invite just Macaulay, it would be to invite Macaulay with bags full of money, the Right as much as the Left declares.

Consequences

Each one of the consequences that the socialist license-quota-permit *raj* inflicted on the manufacturing sector is manifest in the education sector today. Extreme shortages to begin with. As a result, huge rents, an unrivalled opportunity to rake in money under the table. And the predictable result of that: a rush to break into the sector by one device or the other. And who are the ones who are best equipped to, and have been able to break into the sector? Not those who have any particular dedication to imparting education, but those who have the gumption and wherewithal to get around or manipulate the license-permit system. Finally, and again exactly as happened to the licensing and control system for manufacturing, the wholesale debasement of the institutions that have been set up to sanction and oversee and regulate the sector, and the wholesale corruption of the personnel in those institutions.

Even as the pretence has been kept up that the State is the one that is providing higher, technical instruction, the sector has in effect been handed over to private buccaneers. Devesh Kapur and Megan Crowley cite the telling fact: in 1960, private engineering colleges were 15 per cent of the total engineering colleges. By 2003, they constituted 87 per cent.[1] Devesh Kapur and Pratap Bhanu Mehta depict the change as follows:

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[1]Devesh Kapur and Megan Crowley, "Beyond the ABCs: Higher education and the developing countries," Center for Global Development, Working Paper Number 139, February 2008; see also, Devesh Kapur, "Indian Higher Education," paper presented at a NBER Conference on "American Universities in a Global Market," at Woodstock, October 2008.

> There is rapid, unacknowledged privatization of higher education . . . While we do not have precise data, the situation in more than 1000 business schools suggests that 90 per cent are private. Even in general education, there is now a mushrooming of private, self-financing colleges. In Kanpur University (in UP), the number of such colleges outnumbered state assisted colleges 3 to 1, while in Tamil Nadu, self-financing colleges comprise 56% of general colleges and 96% of engineering colleges. Educational institutions, including private universities and coaching centres, have emerged as the largest advertising spending category in print media (which has the largest share of the advertising market in India).[1]

That last fact about advertising is itself an important indication of the rents that are being garnered in this "no profit-no loss" sector, and has far-reaching consequences of its own—of which we shall soon get a glimpse. But first the effects of the kind of private entities that have flooded the higher education sector as a result of the socialist mind-set and socialist regulatory structure.

Three typical products of the licensing system

Two sets of institutions have grown the fastest and become major features of the higher education landscape—colleges that have been set up outside the formal university structure but which have then acquired "affiliation" to a university; and institutions that have been recognized by the regulatory bodies as "deemed to be universities." The Knowledge Commission informs us that there are about 350 universities that award degrees. Of these, 131 universities have colleges affiliated to them. These latter number around 17,500. (In addition there are another 200 autonomous colleges.)[2] As for deemed universities, the original idea was that a few, very distinguished institutions which were mainly devoted to research could be given the status of deemed universities so that they could also award degrees to the handful of persons who would be undergoing education and undertaking research in them. As the years have gone by, the number of institutions which have been

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[1]Devesh Kapur and Pratap Bhanu Mehta, "Mortgaging the Future? Indian higher education," Brookings-NCAER India Policy Forum, 2007, December 2007.

[2]That makes a total of 17,700 colleges on the reckoning of the Knowledge Commission. As is typical of this sector, on the Yashpal Committee's count, the number of colleges is around 20,000.

given the status has continued to grow at an ever increasing pace. "Between 1956 and 1990, in 35 years, only 29 institutions were granted the deemed university status," the Yashpal Committee records. "In the last 15 years, 63 institutions were declared deemed universities and particularly in the last five years, 36 institutions, excluding the RECs [Regional Engineering Colleges], have been notified as deemed universities . . . Between 2000 and 2005, 26 private-sponsored institutions got the deemed university status. Since 2005, the number of private deemed universities has increased to 108 . . . In Tamil Nadu alone, the number of private deemed universities has increased from 18 in 2007 to 35 in 2008 and many are in the queue."

Volumes can be filled with facts and accounts about the conditions in these private colleges and institutions such as deemed universities. For the present discussion, it will be sufficient to recall just a few observations that the Yashpal Committee has felt compelled to make.

The system of affiliated colleges "has been the bane of the higher education system," it says. The bulk of the enrolment takes place in these affiliated colleges, the Committee says, and accordingly they have come to weigh heavily in the university structure. The better colleges as well as the universities themselves are dragged down from several directions, it points out:

> This structure has burdened many universities with the management of academic content, examination, and quality of these colleges. In addition, while better colleges feel stifled by the university bureaucracy—delays, controls, and inadequate support—the better universities are affected by the limited thinking of the college leadership and their negative role in university processes. It is obvious that the better institutions are suffering and creativity is a casualty.

Again, there are several reasons for the dismal quality of so many of these institutions. Among these are the sorts of persons—the Committee rightly refers to them as "investors"—who have set up these colleges. It observes,

> . . .there has been no policy or guidelines to measure the competence of private investors in starting and managing a technical institution other than the requirement that it should be registered as a non-profit or charitable trust or society. This lacuna has been exploited by many investors, who have no

> understanding or experience of the responsibilities associated with institutions of higher education. The trusts or societies that have been formed largely consist of immediate family members—some of whom had little or no educational background—with some exceptions.

There is no mystery as to what must be done. The Committee urges "it would be necessary, for instance, that the present practice of family members who sometimes don't have the experience or the competence relating to education occupying the controlling position of the governing systems of the private educational institutions be prevented. Similarly, the practice of conferring academic designations such as Chancellor, Vice-Chancellor, and pro-Vice-Chancellor on members of the family has to stop."

The moral lies in asking, "When what must be done is so obvious, why does it not get done?" Exactly the question that, whenever asked in the mid-1960s and 1970s, would show up the futility of the myriad efforts to "reform" the industrial and import-export licensing systems: the "single windows" that were set up seriatim—each of which retained multiple bolts; the "Secretariat for Industrial Approvals" . . .

Indeed, the background of several of the "investors" is such, and their acquaintance with education so minimal that the Committee has felt compelled to suggest that

> Specific studies need to be done regarding the sources of funds utilized by such family trusts or societies as there are allegations that such funds are either unaccounted wealth from business and political enterprises (occasionally with some bank loans for purposes of legitimacy) or from the capitation fees charged from the students in addition to a plethora of unexplained fees charged whimsically by these managements.

The environment in which the staff have to function would, but for compelling necessity, deter anyone with a modicum of self-respect. The Committee reports,

> In many private educational institutions, the appointment of teachers is made at the lowest possible cost. They are treated with scant dignity, thereby turning away competent persons from opting for the teaching profession. A limited number of senior positions are filled at attractive salaries, especially from other reputed institutions, mainly for prestige. Otherwise, there are many terrible instances of faculty being asked to work in more than one institution belonging to the management; their salary being paid only for nine

> months; actual payments being much less than the amount signed for; impounding of their certificates and passports; compelling them to award pass marks in the internal examination to the "favourites" and failed marks for students who protest illegal collections and so on.

And, as the same Committee points out, there is another—entirely predictable—side to the ease with which these "investors" have got into the sector:

> . . .investors and philanthropists wishing to set up institutions of higher education with noble motives have been deterred by the unpredictable and often whimsical rules and regulations imposed on them by regulatory bodies in this sector.

The other set of institutions that have mushroomed are the "deemed universities". There are rules, of course, to monitor and regulate these institutions, but they are routinely flouted. To take an example, the Yashpal Committee points out that while "the deemed universities do not have affiliating powers, many of them have a number of campuses spread throughout the country." And the "campuses" are known to all—after all, they are listed in the advertisements that these so-called universities place in newspapers.

"What has raised the concern of the academic world," the Committee says, "is the fact that the majority of these institutes are not established with any educational purpose, and they end up only deluding the students." Describing the conditions in many of these so-called universities, the Committee records,

> The behaviour of some private universities has become a matter of serious concern to a large body of students and parents. There have been several instances of campus violence and related litigations. A detailed probe into the basic reasons for the concerns revealed that many of them were professional colleges that got approval from the regulatory bodies for university status. Immediately thereafter, they started admitting five to six times their intake capacity, without a corresponding increase in faculty strength or academic infrastructure. The classes and laboratories were conducted at strange hours like a factory production operation. The students who paid huge capitation fees felt cheated . . . The existing guidelines and the Memoranda of Association with the UGC were ambiguous and inappropriate to the new situation. Compounding the stigma is the offer made by some of them, after obtaining university status to give "guaranteed" degrees at any level, including

Ph.D., for a price. This has dealt a serious blow to the credibility of the Indian university degree.

But is any of this a surprise? The Act under which the University Grants Commission is constituted, specifies, "It shall be the general duty of the Commission to take, in consultation with the Universities or other bodies concerned, *all such steps* as it may think fit for the promotion and co-ordination of University education and for the determination and maintenance of standards of teaching, examination and research in Universities . . ." That is the *duty* of the Commission. And the Act gives it all the powers that are required for discharging the duty: it has the power to demand information; to cause inspections; to recommend steps that the university must take; to regulate fees, to prohibit donations; to make and withhold grants; to prescribe qualifications that persons must have for appointment to different posts; to decree which college shall and which shall not get the status of being "affiliated" to a university; to decide which institution shall and which shall not be anointed as a "deemed to be university" . . . And the fact is that the Commission, as well as the other regulatory bodies do in fact use these powers—prescribing even the intervals at which convocations must be held!

In any case, are secret investigations required? Are capitation fees, and the numerous "donations" that these institutions extract not known to everyone—students, parents, regulators? The admissions are being done in the open. That the classes and sessions in so-called laboratories are being conducted at "strange hours" is visible to all. Is it at all possible that, after decades of experience in drawing up "guidelines" and drafting and enforcing rules and regulations, the authorities could only put out "ambiguous and inappropriate" guidelines?

So blatant has misuse of this scheme of anointing institutions as "deemed to be universities" become that the Committee urges that "the granting of such status should be put on hold till unambiguous and rational guidelines are evolved . . . The institutions, which have somehow managed to secure such status, should be given a period of three years to develop as a university and fulfill the prescribed accreditation norms failing which the status given to them should be withdrawn."

Blatant fraud

Even that is far from being the end of the story. We have but to look at full-page advertisements in the newspapers to see fraud of an even more blatant kind. Shops such as the Indian Institute of Planning and Management represent the genre, so to say.

Every now and then, readers of one national newspaper after the other are bound to come across advertisements covering almost the entire page from the Indian Institute of Planning and Management. The advertisements make out that this Institute is offering degrees in association with a series of foreign universities—such as the "IMI, Belgium"—and certifications from the University of Texas, Austin, the University of Cambridge in the United Kingdom, and the University of Virginia. The journal, *Careers 360,* contacted the accreditation organization of Netherlands and Flanders (Belgium) and enquired whether the "IMI, Belgium" is a recognized university or a recognized institution of higher education. The authorities there informed the journal that the so-called university is not recognized either as a university or as an institution of higher education and that, since it is not recognized, it cannot award recognized degrees. *Careers 360* then contacted the University of Texas, Austin, the University of Cambridge, and the University of Virginia. In each and every case, the authorities said that they had no agreement with the IIPM by which the latter's "degrees" or "diplomas" could be claimed to have been given by or in association with any one of those universities. The universities affirmed that they had only been approached by the IIPM for conducting weeklong programmes. Thus, at best, the students would get a weeklong course. In some instances, even these were under negotiations at the time IIPM put out its advertisements. And yet the advertisements led readers and prospective students to believe that regular degrees would be given by these universities after full-fledged courses. The journal made repeated efforts to get the response of the IIPM. None was forthcoming.

Not just that. The fraud having been exposed, the IIPM continued to make the claims in fresh advertisements and the newspapers continued to carry the advertisements! In fact, in the subsequent advertisements, the IIPM added yet another university, the University of Buckingham, as another university which was

conducting courses in association with the IIPM and whose degrees would be conferred on the students of IIPM. The journal contacted the University of Buckingham only to learn that the University, like the others, had no association whatsoever with the IIPM.

The journal published its first investigation in June 2009. It ended its report with a "Note" stating, "Readers may look forward for the counter view of the IIPM in the next issue, if received." No response was forthcoming. When the subsequent advertisement roped in the University of Buckingham and the journal learned from that University also that the claim of the IIPM was once again fraudulent, it published the facts in its issue of July 2009. The report of this investigation also ended with a "Note". The journal stated, "Readers may await the counter view of the IIPM/response from the University of Buckingham, if received." Nothing was received.[1] But the advertisements continued, albeit with the Buckingham claim, and, such is the desperation of students for jobs, and, therefore, for "degrees" and "diplomas", that the IIPM continued to get students and rake in crores. No newspaper stopped taking its advertisements. No authority commenced inquiry into the fraudulent claims that were clearly misleading thousands of students and parents.

Two additional points are worthy of note.

The author of the investigations into IIPM, Mahesh Sarma, and the publisher of the journal, Maheshwar Peri, tell me that they had taken their findings to some of the major newspapers. The persons concerned were full of praise for the work that they had done; to a man they had said that the conclusions were unassailable. But each of them declined to carry the facts. Is the reason far to seek? Just ask trade circles about the advertising budget of the IIPM, and you will get close to the answer.

The second point involves me! A few years ago, Arindam Chaudhuri, the most visible face of IIPM, the pony-tailed person who features ever so prominently in its advertisements, came to my house and invited me to launch a new business and economic magazine of the IIPM. The contents seemed to me to be quite superficial, the writing and proofreading below par. But I had gone. When, upon

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[1]For investigations by B. Mahesh Sarma, "IIPM – Best only in claims?," *Careers 360*, June 2009, pp. 20-23; and "IIPM makes yet another claim – over to you Mr. Sibal," *Careers 360*, July 2009, p. 16.

reading the *Careers 360* investigation, I began checking facts, I learnt that photographs of my being at the IIPM function too were being used in some of their promotional material. Twin lessons: we should not accept invitations without a background check; and others should not be misled by photographs of persons at functions—both sets should verify facts about the institution itself.

The regulators

Each time facts like the foregoing have burst into the open about affiliated colleges, deemed universities, about institutions like IIPM, the response of the State has been to issue yet another set of guidelines, to start supervising yet another facet of the functioning of institutions, to commence even more frequent and stringent inspections, etc. By now, a university can be set up only by a separate Act of Parliament or the state legislature, an Act specific to that University. There are regulations about persons who may be appointed to teaching and administrative positions; there are regulations about the salaries and allowances that they may be paid; there are regulations about syllabi . . . there are regulations about holding convocations. From the resources that they may have to where they may be located and whether they may expand, and if so, to what extent, to the courses they may introduce, a posse of bodies—the Ministry of Human Resource Development, the Planning Commission, the UGC, the AICTE, and one of the specialized oversight bodies—determines what universities and the like shall do. And then, as education is a concurrent subject, the states have their own laws and rules and regulations and bodies. And then there are the courts: higher education has been one of the most litigious of sectors. Each time a judgment is handed down, the regulatory bodies come up with further regulations and guidelines. Each time these new regulations are put into practice, another round of litigation starts.

The result? "Interference, from various political or commercial vested interests, in the functioning and priorities of the universities comes in many different forms and intensities," the Yashpal Committee reports. "It touches all aspects of higher education and involves improper admission of students, pressures in selection of teachers, manipulation in appointment of senior functionaries like Vice-Chancellors, registrars and deans, purchase of equipment and

allotment of construction contracts and so on." On paper, every contingency has been provided for, checks and balances have been built to ensure fairness and probity at every step. The UGC's regulations that are to govern recruitment of lecturers and professors of various ranks cover *eighty-six* pages. There are "Search Committees" for selecting Vice-Chancellors, Directors, and other senior personnel. The reality? "The appointments of heads of such institutions, like Vice-Chancellors, directors etc, are made by Search Committees with candidates of impeccable credentials, keeping the best interests of the institution in view," the Yashpal Committee says, only to add, "It is a matter of deep concern that in recent years, choosing persons for such high level appointments is becoming scandalous in several states involving political and financial considerations at the cost of qualifications and competence."

The results are exactly the ones that marked/marred the industrial licensing system:

- All that the regulatory bodies and the decision-makers above them do when they decree yet another set of regulations is to issue the edicts. A senior member of the AICTE illustrates the point: a part in the institution used to supervise 337 colleges in 1990; today it is supposed to supervise 7272—its staff remains more or less what it was! In its attitudes even more than its numbers.
- The regulatory system is paralysed by its complexities.
- And by turf wars. Between states and the Centre. Between ministries in both the states and the Centre. Between bodies under single ministries in the Centre. A typical case that burst into public acrimony recently concerned the right to send inspectors to "deemed universities". Both the UGC and the All India Council for Technical Education insisted that it had the right to do so—for other boons accrue upon dispatching inspectors. Eventually, in April 2006, the Ministry of Human Resource Development had to issue a notification "clarifying" the matter. The clarification is a classic bureaucratic solution: both bodies have the authority to send inspectors, it decrees, but the scope of the inspections shall be different! The AICTE inspectors shall concern themselves only with verifying whether standards are being maintained in management and technical education, and, if not, what remedial

measures ought to be taken by the institute; "general standards", those dealing with academic excellence in general, those dealing with administration, etc. shall be the preserve of the inspectors sent by the UGC.

- The regulatory system is paralysed just as much by the influence and resources that the ones it is to regulate and discipline, bring to bear on it. Example after example can be given of this suborning:
  - ". . .An attempt was made by the UGC not long ago, to demand academic and administrative audit of higher educational institutions, to be eligible for its support," says the Yashpal Committee reporting a typical sequence. "This was meant to be essentially an introspection process with a viable internal quality assurance cell to overcome undesirable practices and enforce quality norms"—that is, no one could complain that it was an intrusive exercise. But what happened? The Yashpal Committee reports: *"This has now become defunct."*
  - By mid-2006, those who had made a business of "deemed universities" had been able to persuade the Government that they may no longer use the word "deemed" in their nomenclature. Accordingly, in September 2006, the University Grants Commission issued a notification permitting each of them to describe itself as a straightforward "university". That was a great boost for marketing! Litigation ensued. On 19 August 2009, the same UGC had to issue another notification annulling the previous notification "with immediate effect".
  - The classic example of profiteers suborning the State exactly as used to happen in the case of industry and trade in the 1970s and 1980s occurred in 2002. The Congress-run Government of Chattisgarh got the legislature to enact the Chattisgarh University Act. Fly-by-night operators got the chance of a lifetime to set up "universities"—with "campuses" not just in Chattisgarh but in other parts of the country also. Within months, ***one hundred and twelve*** "universities" were established. And they announced branches in states as distant as Tripura! It took three years to have the entire operation struck down by the Supreme Court. The fraud was ended. The students who had been

> waylaid into joining these "universities" had, of course, lost the years, and their parents had lost enormous sums of money.

The consequence of this last fact—of the influence that those who are to be overseen are now able to bring to bear on the overseers—is brought home every month: as I type this, newspapers carry reports about officials of the AICTE being hauled up and interrogated and suspended for hefty corruption.

Absurdities and imbalances abound. "India remains a country that produces more doctors than nurses," Devesh Kapur and Pratap Bhanu Mehta note. "India's civil aviation sector experienced phenomenal growth from 2001 onwards; yet approvals for aviation engineering schools were not forthcoming. As a result, India is a net importer of aviation engineers and pilots . . ."[1] Such imbalances are *exactly* what used to characterize and paralyse industrial production when officials sitting behind desks in the DGTD and not the entrepreneurs used to decide what would be produced, how much, by whom, where, with what materials and equipment. The sector is "over-regulated but under-governed," the Knowledge Commission records. "The barriers to entry are too high," it says. "The system of authorizing entry is cumbersome. And there are extensive rules after entry, as the UGC seeks to regulate almost every aspect of an institution from fees to curriculum." Furthermore, the Commission records,

> The system is also based on patently irrational principles. The UGC Act section 3.1.2(a) suggests that permission for receiving grants will be accorded only if the Commission is satisfied that the existing institutions in the state are not adequate to serve the needs of the state. The other regulators, say in the sphere of professional education, are often inconsistent in their adherence to principles. There are several instances where an engineering college or a business school is approved, promptly, in a small house of a metropolitan suburb without the requisite teachers, infrastructure or facilities, but established universities experience difficulties in obtaining similar approvals. Such examples can be multiplied . . .

But why talk of just stray colleges being given the permission that is denied to established universities? Over the last few years, a number

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[1]Devesh Kapur and Pratap Bhanu Mehta, *op. cit.*, p. 10.

of IITs have been declared to have been "established". In a typical case that I know personally, though more than a year has gone by since its "establishment" was announced, even the site where the new IIT is to be located has not been selected. The head of the institution was appointed almost a year after its having been "established". It was only after a year and a half that he was able to start the recruitment of faculty. In the meantime, the IIT was declared as being housed in another IIT . . .

"In sum," the Knowledge Commission concludes, "the existing regulatory framework constrains the supply of good institutions, excessively regulates existing institutions in the wrong places, and is not conducive to innovation or creativity in higher education."

The deep-rooted instinct

The point to see is that these facets are the inevitable consequence of the basic premises of socialist Statecraft. And that those premises have deep roots in our discourse and policy-making. As we have seen, we have had one Commission and one Committee in the recent months to overhaul the higher education sector—the Knowledge Commission and the Yashpal Committee.

Both groups have proposed several measures, in a sense, to liberate the sector. And yet, socialism lurks! To take one example, after showing up the absurdities and perverse consequences of the present regulatory structures, both groups propose an over-arching regulator—of course, each differentiates the super-regulator it is proposing. Will the new regulator not go the way of the UGC, the AICTE, the Medical Council, and so on? Have the "special courts" not gone the way of ordinary courts? Have the Administrative Tribunals not gone the way of courts?

For reasons of space, I shall illustrate the point by taking just two examples, and that too from just one of the two groups—the Yashpal Committee.

The principal recommendation of the Yashpal Committee is to institute a Higher Education Commission which will subsume the existing commissions and councils like the UGC, AICTE, the Bar Council, the Medical Council, etc. The Committee says that these different specialized institutions and councils have led to the "cubicalization" of education when, in fact, knowledge is an

integrated whole and is best created through interactions between disciplines. This Higher Education Commission, the Committee recommends, should have constitutional status so that it is completely insulated from political and other interference.

The Committee notes that as these different councils have gone their different ways, proposals have been advanced from time to time for ensuring coordination among them and that these proposals have been in the works for *over two decades:* on occasion, the proposal has been to create a single regulatory body for higher education; at other times, the proposal has been to create a coordination council of the various existing regulatory institutions. The National Policy of Education put out in 1986 and the subsequent Plan of Action put out in 1992 to implement that policy, the Committee recalls, envisaged the establishment of a national apex body to coordinate and integrate the planning and development of the higher education system in India, including research.

The Committee proposes an over-arching body, the National Commission on Higher Education and Reform, the NCHER—a body which, it says, will be different from the one proposed by the National Knowledge Commission. But, naturally, one cannot stop at having just one National Higher Education Commission! The Committee proceeds to recommend, "Keeping in mind the federal nature of our country and the role of the states in the field of higher education, it would be necessary to create Higher Education Councils in the States which should be in constant dialogue with the NCHER with an aim to create a comparable national system of higher education which respects regional diversities and also allows different kinds of institutions, created by the state or the Centre, to grow on an equal footing . . ."

To begin with, therefore, we have 1+ 29 new institutions!

Indeed, the multiplication has come pre-packed with the recommendation itself! While proposing structural changes of this kind, and while setting out a generalized "roadmap", the Yashpal Committee has recommended that a Task Force be set up and be given the responsibility for working out the details for implementing its prescription!

The new institutions will be victims of the law we noted earlier—J.P. Naik's law of Indian institutions. Ten years after the institution is

set up, Naik used to say, the problem which it was set up to handle is still there, and the institution has become a new problem. Will the personnel of the new Commission and Council's be selected by authorities outside the governmental structures? Will their ethos be less governmental than that of existing "autonomous" institutions? Will they derive their authority from an Act, and from their proximity to those in governmental offices or from the intrinsic attainments and integrity of their personnel?

Consider a second example—that of allowing or not allowing foreign institutions of higher learning to set up operations in India, themselves or in collaboration with Indian partners. The Yashpal Committee recommends that, while foreign institutions should be allowed to set up operations in India, very careful screening should be done. "If the best of foreign universities, say amongst the top 200 in the world, want to come here and work, they should be welcomed." But then, predictably, it adds, "Any decision in this regard has to be taken with utmost care keeping in mind the features which are essential for an institution to be called a university. *Such institutions should give an Indian degree and be subject to all rules and regulations that would apply to any Indian university.*"[1]

Since the Committee submitted its report to him, the Minister has amplified this aspect. The foreign institutions must provide reservations the way our institutions are required to do. That would mean that they must enroll at least half the students on the basis of birth, that they must have reservations in the faculty also. Which university of excellence abroad would come to India if it is to reserve half the seats both in the faculty and in admission of students on the basis of caste?

Second, he has said that the institutions must be strictly "no-profit, no-loss" operations. Declarations such as these are made to counter the premise that the foreign institutions look upon India as a *sone ki chidiya* still, and are panting for the chance to rob it again.

Professor Pankaj Jalote, Director of the Indraprastha Institute of

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[1]In his foreword, the Chairman adds a variant: "In order to enrich our higher education we might invite from abroad a substantial number of potentially great academics and scientists to work with our students and teachers, instead of importing mediocre foreign universities to set up shop here."

Information Technology, sends me a simple but telling calculation. The fee that a foreign institution may charge will have to be one that the middle class can afford. Currently the highest tuition fee that private universities charge in India is of the order of Rs. two lakh or about $ 4000 per year. Even if we assume that the foreign university shall charge a fee of $ 5000 per year—a fee that is just about one half of the fees in several middling universities in the United States but one that will be a quarter higher than the highest fees in India—the university will have a revenue of $ five million with 1000 undergraduate students, and $ 50 million if it succeeds in enrolling 10,000 students. An enrolment of 10,000 students would mean that the foreign university would have an enrolment exceeding by far that of the 15 IITs, the IT at Banaras Hindu University and the Dhanbad School of Mines taken together, that it would have an enrolment more than *five times* that of the seven IIMs today. How significant those amounts—$ five million and $ 50 million—will be in the assessment of the foreign university can be gauged from the fact that the annual budget of a university like MIT is over $ two *billion*, that of Georgia Tech is about $ 1.2 *billion*, both of which, Dr Jalote points out, are medium-sized universities. "And remember," he writes, "the $ five million or even $ 50 million is the total *revenue* that would be generated when the operations of that foreign university become large in India, not *profit*." For this paltry addition to their revenues, these universities will subject themselves to reservations in faculty? To dictation in regard to syllabi, fees, administration. And thereby put at risk reputation which they have built up over decades . . .?

The answer is ready at hand. In the last few years, very, very few of these universities have set up operations abroad, and they have done so only after very major incentives—on the Gulf scale—were given to them. And even then, some of them have wound up the campuses that they had set up as they did not find the academic environment congenial.

Yet, here we are repeating as if by rote the old declarations—"They must abide by our regulations regarding reservations . . . They must be strictly no-profit, no-loss operations . . ." That is exactly the kind of things our governments used to say in the initial years of liberalization in regard to foreign investment in industry and

infrastructure. Only years later did they realize that it is not enough to be more open than we were yesterday, we have to be more attractive than alternative investment destinations—and not just in terms of prospective returns on investment but in the entire range of considerations that a foreign firm would weigh before deciding where it will put up factories.

Things to do

The list of things that need to be done is indeed long: from entirely new methods of instruction to ever-new subjects; from the urgent need to reverse the decline in enrolment in natural sciences, and ensure that students will persist in the stream till they have acquired doctorates; from igniting the exploratory spirit in students to having them acquire the meta-skills that will enable, and goad them to go on learning throughout their working lives; from turning their outlook round—so that their sights are set to the future than lost in controversies of the past; so that they become adept at crafting solutions rather than describing and analysing problems and measuring them more accurately—to having them acquire proficiency across disciplines; to replacing reservations that exclude prospective students on the basis of birth with positive help that enables all to become competitive. And such proposals have been listed time and again, most recently by the Knowledge Commission and the Yashpal Committee. I will confine myself to matters that arise directly from what we have noticed above.

The first thing that we must shed is the inverse snobbery by which higher education, and, by extension, the institutions which provide higher education are dubbed as "elitist". Breakthroughs are made by a handful. We cannot expect the "broad masses" to devise the materials and fuels needed for rocketry. Weapon systems required for the country's defence, indeed processes and equipment required for modern manufacturing in general, cannot but be devised by very small numbers. While many a farmer innovates as he copes with the vicissitudes of weather and markets, if we want a second green revolution, if we want this in rice, in pulses, we just have to rely on a handful of scientists. Moreover, in this age of technology, advances in each field depend upon excellence in a range of other fields: we cannot make progress in biotechnology if we fall behind in information technology; we cannot progress in robotics if we fall

behind in devising new materials, if we fall behind in computer sciences. Progress in any one field is dependent on progressing along a wide front. If we fall behind in any one field, we will be falling behind in a range of other technologies which are required for the strength and prosperity of the country in the future. Advances in these specialized fields can only be made by the products of higher education, and of institutions which have made the pursuit of excellence their overriding concern.

Second, we have to realize that, and we must acquaint people with the bitter truth that, given the level of development of our country, we just cannot extend the facilities of these specialized institutions of higher, technical education to everyone. They will necessarily have to be limited to a minority. What we can do, and what we must, is to enlarge the catchment area for enrolment by providing scholarships and the like. What we can do, and must, is to make sure that the selection process is fair. What we can do, and must, is to ensure that those who are disadvantaged get positive help—in the form of better nutrition if that is what is coming in the way of their learning to their maximum potential; in the form of dormitories, free tuition, easy and free access to computers, etc. We can and must ensure also that once they enter the institutions of higher learning, they do not have to drop out because of economic compulsions. But we must accept the fact that, even after all these ameliorative measures have been taken, higher, technical education will remain limited to a small proportion, say a fifth, of those who graduate out of high school. And that, in higher education as in, say, medical care, a country like ours will be providing multi-tier services.

Third, we must realize that substantially more resources will be required for higher education than are being set apart for it today. This is how the Knowledge Commission describes the present situation:

> There is a serious resource crunch in universities which leaves them with little financial flexibility. In general, about 75 per cent of maintenance expenditure is on salaries and pensions. Of the remaining 25 per cent, at least 15 per cent is absorbed by pre-emptive claims such as rents, electricity, telephones and examinations. The balance, less than 10 per cent, is not even enough for maintenance let alone development. Laboratories and libraries languish while buildings crumble. But that is not all. In most universities, plan (investment) expenditure is less than five per cent of non-plan (maintenance) expenditure.

> Such a small proportion of investment in total expenditure can only mortgage the future. It is doing so . . .

How can we compete with the world when this is the condition of our institutions of higher learning? And it is certainly not the case that the country lacks resources: witness the ease with which governments set aside Rs. 60,000 crore for debt relief; Rs. 50,000 crore for yet another Pay Commission; Rs. 1,00,000 crore for sundry subsidies; Rs. 30,000 crore for NREGS—all this in just a year.

And when we apportion additional resources, we must not expend them only on buildings and real estate. We must raise the salaries and allowances of teachers. To say nothing of the best, why will even the moderately competent stay back and teach when they can get elsewhere multiples of what they get in these institutions? Second, on technology. Investment in technology will be one of the best ways to overcome one of the severest constraints that bind the sector today—namely, the shortage of teachers. It will also be one of the best ways to raise standards. Knit the colleges through technology; let the teacher who is the best in the subject in the state, deliver the lecture for students all across the state to see and hear; and have the local teacher do the follow up work, tutorials and the like. Investment in technology will also enable students to access the best teaching material from distant universities. Starting with MIT, a large number of the very best universities now put their course materials on-line. The material, including streaming videos of lectures can be accessed free by any student or teacher. MIT began putting its courseware on-line in 2002. By June 2009, it had put material relating to 1900 courses on-line, including of 27 courses for which the complete lectures too were made available in streaming video. Michigan, Yale, Tufts, Berkeley, Stanford and various other universities have also put course material on-line. Over 200 institutions of higher learning have formed the Open Courseware Consortium, with each institution pledging to put courseware for at least ten courses on-line free . . .[1] The movement for putting

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[1]Devesh Kapur and Megan Crowley also point to additional resources: the Directory of Open Access Journals covering more than 390 journals; the Public Library of Science; the Essential Electronic Agricultural Library led by the Rockefeller Foundation and Cornell University; the Access to Global On-line Research in ...

courseware in the commons has taken off in India also.[1] In a word, the very best learning material is coming into the public domain. A little investment in technology will bring it to the desk of every student and teacher.

Hence, resources. And the country has more than enough resources to devote to higher education. But, and this is equally important, resources are not all that we require. There are warnings aplenty. A recent study by Accenture ranking nine countries across 16 criteria points out that India devotes one of the highest proportions of its total expenditure on education to higher education; that it spends more per student within its higher education system than any of the other countries studied; and yet it comes out seventh in the list of nine countries.[2] An even more conclusive warning comes from Professor Pervez Hoodbhoy of Pakistan. In an important address, "Science and the Islamic World,"[3] he asks how it is that Islamic countries, which have enormous wealth from oil and other natural resources, produce so little by way of scientific work. He shows that resources, grants, conferences and the setting up of institutions are by far the lesser determinant of excellence in the pursuit of science. Attitudes matter much, much more. The attitude that reason, logic and evidence shall carry more weight than revelation; that free inquiry and not respect for authority shall

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... Agriculture led by FAO; the Health Internet Work Access to Research Initiative led by WHO. Devesh Kapur and Megan Crowley, "Beyond the ABCs: Higher education and the developing countries," Center for Global Development, Working Paper Number 139, February 2008.

[1]In another paper, Devesh Kapur points to the Indira Gandhi Open University, of course. In addition, he points to the "national programme on technology enhanced learning" [NPTEL]. Commenced by the IITs and the Indian Institute of Science, it aims to improve engineering education in the country by developing curriculum based video and Web courses. Devesh Kapur, "Indian Higher Education," paper presented at a NBER Conference on "American Universities in a Global Market," at Woodstock in October 2008. By October 2008, the project had already come to cover 74 courses, and the sites had already registered 1.3 million visitors.

[2]The study focuses especially on Brazil, Russia, India, China, South Korea, Mexico and Singapore. The 16 criteria are grouped into four heads: investment in higher education, delivery and innovation, access and inclusiveness, and globalization.

[3]Pervez A. Hoodbhoy, "Science and the Islamic World: The quest for *rapprochement*," *Physics Today*, August 2007.

prevail; that facts and hypotheses shall be checked and rechecked; that questions shall be asked about everything and of everyone; that deviant opinions and heresy shall be respected; that universal standards in the pursuit of truth shall not be lowered by claiming that they are not relevant to "Islamic science"; that there is a universe of things to be discovered, that everything was *not* known to the ancients we revere, that it is *not* contained in one book . . .

So many of Hoodbhoy's admonitions apply literally to our "ideologues"—of the Right as much as of the Left—who have been buffeting higher education. But there are other "ideological" assaults too that are just as injurious. How can higher learning flourish when, as Ortega y Gasset would surely have recognized, excellence is condemned as elitist, when mediocrity is the norm, vulgarity is flaunted as authenticity, when standards are denounced as a conspiracy to keep the downtrodden down, when intimidation is argument and assault is proof?

The fact that the State of India has enough resources does not establish that the State alone should be providing higher education. The fact is that the State has many other obligations in addition to education. Even more important, as we have seen in the case of industrial production and the services sector, the State will just not be innovative enough. Therefore, as in other spheres, the approach should not be *"either/or"*; it should be *"and also"*. The State *as well as* the private sector; Indian educationists and institutions *as well as* foreign educationists and institutions.

The malady in this sector, as we have seen, is exactly the one which held back the manufacturing sector 20 years ago. And the consequences are also exactly the ones that plagued the manufacturing sector at that time. The clue to reform lies in the approach which has brought about the sea-change that has taken place in manufacturing over the last two decades. The State must enable, it must incentivize the best, most resourceful and most innovative—both Indian and foreign—educationists and entrepreneurs to provide higher education. We must recognize that several of them will undertake this task for profit. Let us even assume that some of the foreign universities which will come to India will come to make a profit. But will we not be the net-gainers? Take the case of foreign universities. Today, as a country we spend close to $

3.5 billion, some say $ 4 billion every year on educating our children abroad. That is, close to *Rs. sixteen thousand crores every year.* If we were to set aside even as large an amount as Rs. 200 crore per institution, we could set up *eighty IITs and IIMs every year* with that money. Nor is it just a question of the amount of money we spend every year to educate our children abroad. Data garnered by the National Science Board of the United States for *Science and Engineering Indicators* establish that the overwhelming proportion of students who obtain higher degrees in, say, the United States, plan to stay on in that country.[1] India loses more than money. It loses precious talent.

In a word, we must make it worth the while of the very best and the most resourceful sections to enter this sector. Observer after observer has pointed out, for instance, that, as, four institutions apart, our institutions are nowhere among the best 500 institutions of higher learning in the world, were we to have any institution that is among the best 500, and is not from a country that we regard as hostile to India, to set up its campus in India, we would only be raising teaching and learning standards in the country. Directly—by the instruction that will be imparted by the foreign institutions; and, even more so, indirectly—by the example they would set, and the alternative they would provide to our homegrown institutions exactly as has happened in manufacturing.

The first requisite for getting them to come here would be to replace policies like reservations by measures providing real and positive help to students—to students selected on secular, economic and educational criteria. A small, yet additional reason for replacing those regressive and divisive arrangements.

Finally, and this is the principal lesson that springs from the foregoing description of what the sector has come to, we need to completely reverse the prevailing dogma regarding regulation and regulatory bodies. We need, not a movement towards affiliation of more colleges to universities but a movement to *de-affiliate* them, not

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[1]Eighty-eight per cent of Indians who obtained doctorates in 2002-05 affirmed that they planned to stay on in the USA. Sixty-three per cent indicated that they had "definite plans" to stay on in that they had firm offers which they had accepted. See, National Science Board, *Science and Engineering Indicators, 2008,* Volume I, pp. 2.6, 2.35, 3.45, 3.51, and the corresponding Appendix tables.

more powers to universities but liberation from them. We need not more powers to the UGC, AICTE, etc. but their replacement with independent rating agencies. Institutions will come to stand on their own. They will come to be known by the excellence or mediocrity of their alumni.

Devesh Kapur and Pratap Bhanu Mehta propose a "thought experiment":

> As a thought experiment, suppose India simply abolished most of its non-performing universities and dispensed with formal requirements of having a degree and instead put in place a series of well-designed exams, which students can take at periodic intervals. How they would choose to "study" for these is left entirely up to them. These exams would be such that they would carry the kind of credibility IIT-JEE does at the moment; except that they would send credible signals to employers about the "quality" of recruits . . .[1]

Extend that experiment to a situation in which our response to every new shortcoming that bursts into public view is not to pass yet another law, to give yet more powers to the UGC, etc., but to develop objective criteria for assessing colleges; to build independent and robust rating agencies; and to broadcast the ratings to every nook and corner of the country.

That publicly broadcast ratings will spur better performance can be seen from the response to rating the performance of states. Even though these are limited and few, the exercises have already nudged chief ministers and state governments to strive to focus on governance and development and to perform better on those indices. Sure, some of the new rating agencies may also be corrupted by unscrupulous institutions. But just as surely, a set of agencies will arise which will see that their growth and even profitability depends on their credibility—as happens in newspapers, and on occasion even among politicians!

Prospective students and their parents will vote with their feet. And employers will be better able to differentiate one Ph.D. from another.

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[1]Devesh Kapur and Pratap Bhanu Mehta, "Mortgaging the future? Indian higher education," Brookings-NCAER India Policy Forum 2007, 26 December 2007.

A final word

But for such changes to come about, attitudes must change. Unless society again comes to respect the man of learning rather than the smuggler with pots of money; unless it again comes to respect the solitary scholar because of the depth and significance of his work rather than a politician because he happens to be the minister of the moment; unless persons are prepared to devote themselves to a life of scholarship for its own sake, no amount of resources will turn the sector around.

For any of this to happen, as in the case of Reforms in general, we must speak up, we must be the lobby for excellence and Reform. Parents must be. Students must be. More than anyone, the academics must be. The Yashpal Committee nails the point when, in a section entitled "Subversion from within", it remarks,

> One needs to realize that blaming private initiative, political interference and other forces for the loss of autonomy of universities is not sufficient. An objective observer of the university system in India would accept that there was no rigorous resistance from within the academic community to the role played by socio-political and market forces to manipulate and subvert the normative structures of the university system . . . The independence of scholarship from power has often been put to test and regrettably the academic community has, on most crucial occasions, failed. It has resulted in a situation where it has become easy for some of those in power and in the bureaucracy to curtail the autonomy as the academic community has proved itself to be unworthy of practicing it . . .

Exactly. That is the place to begin the transformation that this sector needs.

An affray

12.

On the way down, Or *The Muqaddimah* updated

Four instances, two questions

- Mrs Indira Gandhi is able to block the implementation of the Allahabad High Court judgment by changing—with retrospective effect! no less—the law under which it held her guilty of corrupt electoral practices;
- Rajiv Gandhi is able to use his control over three-quarters of the House to block all inquiry into Bofors.

Do these instances testify to the strength of Mrs Gandhi and Rajiv Gandhi? Or to the weakness of the political system?

- Scores and scores of committees and commissions have been set up to reform the civil services; the services have continued exactly as they have been.
- Or recall the example we have encountered earlier, of how the effect of subsection 3 of section 8 of the Representation of the People Act—that would lead to a legislator immediately losing his seat in the legislature upon being convicted of a heinous

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The Indian Express, July 2009. *Conventional analysis has it that troubles broke out in the BJP as a* result *of defeat in the 2009 Lok Sabha elections. The causation was the other way round. The troubles only brought into the open what had long become the internal condition of the party. It is this fact—that this is what the party had reduced itself to—that had caused the defeat. The result of the elections was certainly a disappointment to many of us—though, some of my colleagues and I used to often wonder how a government could be run successfully with the kind of leadership and "talent" that had grabbed the party.*

In any event, that apprehension was not put to the test! The NDA lost. We expected that there would be an honest and thorough examination of the reasons for the defeat, and that those who were responsible for steering the party into those straits would be.....

crime—is nullified by the self-serving text of the next subsection.

How does a gaping crater of this magnitude in the law continue? How are civil services and legislators able to ward off reform so successfully?

Birth to senility

A movement, an organization is originally inspired by an ideal: to undo what is wrong, to establish what is right.

Whether it triumphs or fails in its initial objective, over the years, it becomes a political party.

... held accountable. Jaswant Singh, Yashwant Sinha and I urged these points—in several conversations with the leaders. Then in letters. I was given a chance to urge the points to the National Executive of the party, and therefore spelled them out.

The leaders would have none of that. They maintained, and lectured the National Executive to the effect that all that had happened was that the forecasts had gone a little awry; that, in fact, the party had, believe it or not, succeeded*—in its mission of creating a bi-polar polity; that the party had been through worse times; that those who were urging introspection, etc., were defeatists; that they were indulging in a blame-game. . . The establishment spokesmen were fielded to reiterate what the leaders had asserted.*

Asking for accountability now became treason. Asking the questions in writing, became indiscipline. Soon, the very persons who had brought the party to its sorry pass were rewarded, and we became the ones who had to be brought to account!

An organization unable to pull itself out of a swamp. And that for the manifest reason: the decision to change rested in the hands of the very persons who would be the first to go if the change were to be brought about.

I wrote "On the way down". A number of party men who are members of Parliament told me directly, as did a number of partymen over the telephone from other parts of the country that they agreed with every word that I had written, that it needed to be said. They knew exactly who was who in the article, they said. They recognized the phrases as they had heard them directly from the leaders. They were only asking themselves, they said, whether they themselves were "the fools" or "the real fools" of the article!

The leaders, however, dug in their heels. Cries went up to take "action" against me. In turn, I agreed to discuss the matter with my friend, Shekhar Gupta, in his programme, Walk the Talk.

"Arun Shourie wants to be a political martyr," said the spokesman of the BJP. "We will give him the opportunity to become a martyr." "These are all pampered boys of the BJP," others told the press. "They came to it only for the cream. Now that the party has lost and has no cream to give, they are saying all this. . . Frustrated individuals. . ."

Incensed by this customary reaction—one that I have had to contend with repeatedly in the last thirty-odd years—I wrote what is the last piece in this volume, "We must have no price, and everyone must know that we have no price."

At its inception, the Party too is impelled by ideals. The crusade from which it has taken birth is still vivid, the idealists who led the movement, who then founded it and toiled to raise it are a living presence. Propelled by these memories, the Party seeks to change the order, it wants to recast the polity of course, but more: it wants to recast society into the ideals to attain which it has been formed.

Over time, it forsakes this idealism, and becomes a mere electoral machine.

Soon, it rusts into a machine that fails to win even elections.

Members become increasingly anxious: after all, if the Party continues its decline, they tell each other, it isn't just that the ideals which are its very reason for existence will not be attained, that the transformation for which they have been striving will not come about; their personal fortunes will evaporate. They run from leader to leader, urging reform, a return to ideals. Their efforts get nowhere. The Party does not reform. It does not die. It just goes on falling to pieces.

Why does this degeneration take place? Why do efforts to arrest its decline come to naught? By what symptoms may we know that a particular organization is on its way down?

In one of the greatest works of history, Ibn Khaldun chronicled the founding, rise, decline and eventual disintegration of dynasties. In the introduction to that work, *The Muqaddimah,* he set out the patterns he had deduced: the abandonment of the austerities of the desert for the luxury and ease of settled courts; the waning of the "group spirit"; the culture of cunning and intrigue within palaces that replaces the valour of open battle . . . We have but to tweak the conclusions a little and we have the reasons on account of which our political parties moulder and waste away. And that should not surprise us. After all, so many of them are collections around dynasties; so many of them are gangs around individuals; so many of them are—at all levels, from their central offices to their local branches—parties of four/five persons for the projection of four/five persons. Not just the conclusions of Ibn Khaldun, the very words ring true as we see the parties deteriorate and eventually crumble.[1]

[1]For a most instructive read, and to see how not just the patterns but the very words hold true for our times, Ibn Khaldun, *The Muqaddimah, An Introduction to History,* translated by Franz Rosenthal, abridged and edited by N.J. Dawood, Routledge and Kegan Paul, London, 1967.

Two suggestions about reading this updated version. Do not rush through it. I have kept examples to a minimum: after a paragraph, recall the examples you know from your own personal experience that fit the words. Second, you will miss the point entirely if you think, "O, this is about the BJP . . . O, this is about the Congress . . ." Instead of concluding that I am out to convey some "hidden meanings" and trying to figure these out, think of your own party or organization, the party or organization that you know best, from the inside such as the Congress, the BJP, the Communist parties, the regional parties: Telugu Desam, the DMK, the BSP, the AGP, the Akalis, the Shiv Sena, the Samajwadi Party, the JD(U) . . . It is then that you will get the point of the updating, namely, that the symptoms are true of *all* our political parties today.

Hence, our real problem: there is nowhere to turn for an alternative.

The orientation, and its consequences

Our system, indeed our society is heavily oriented towards the State. He who occupies offices of State at the moment, receives deference, he is surrounded by hangers-on, by pelf; he gets the opportunity, if he is so inclined, to rake in money: in a word, as they say in Punjab, "the usual pump and show."

Hence, when the Party acquires office, its leading figures acquire all this: deference, pelf, the opportunity to rake money in. As they commence to use these, five things happen:

- Even if they are personally honest, the principals in the Government are implicated by association: they have the clear duty as well as the clear opportunity to put an end to the doings of their juniors; they do not do so and this is enough to put them in the position in which, when the evidence of wrong-doing erupts, they have only one option: to defend their colleague. And there is a ready rationalization for doing so: "How can we desert our colleague when he is trouble?" Suddenly "loyalty" acquires a new meaning: it does not mean loyalty to those pristine ideals; it comes to mean sticking by the colleague, the very person who has departed from those ideals.
- That robs, first, the leaders; then the Government; and, thence and therefore, the Party of its claim that it is different, that it is

inspired by ideals, that it is in politics not for power and pelf but to recast governance and society in those ideals.

- Being in the Government is far more exciting than staying back in the organization: for those still committed to the ideals that had enthused the movement and organization originally, being in the Government affords an incomparable opportunity to translate those ideals into practice; for those who are impelled now by other goals—money, "power", pelf—remaining in the backwaters of the organization is anathema. Hence the "best and brightest" rush into Government. Whether the Government as a whole does well because of the few who are still dedicated to ideals or not, the Party certainly languishes.
- A distance develops, first between adherents who are still inspired by those ideals and those who have forsaken the ideals; then between the leaders who are in office and are visibly enjoying the perquisites of office and the followers; the latter now ask, "These fellows came to office because of *us; they* have their bungalows, *they* have their cars with *laal batties;* what have *we* got?"
- And distance develops even sooner between the principal leaders themselves: portfolios, size of offices, the ear of the ultimate boss, money—everything becomes a trigger. Comrades become colleagues; colleagues become competitors, rivals. But, in a sense, these spoils can all be managed. That one principal gets more of one thing can be made up by the other being enabled to get more of another. But there is one thing which really is a zero-sum magnitude: prominence. As there is only one front page, if one of the principals is splashed across it, by definition the others are excluded. Distance becomes envy; envy becomes jealousy; jealousy becomes venom. You can see the transformation in the very faces of the principals.

Even by themselves, just these features are enough to cause the Party to begin losing its vitality as even an electoral machine.

The leader and his circle

But the leader has done more to weaken the machine. The more power is vested in him, the less secure he feels. Hence, exactly as

Ibn Khaldun wrote about the choice of *wazirs* and successors, in choosing his circle, the leader's concern is to choose the ones who will least threaten him, who will best advance his dynasty, who will best secure and perpetuate his position, that is, he chooses weak men and henchmen, not ones who will best advance the ideals for which the organization had been founded. The weaker the man and the more compromised he is, the more dependent he is on the leader. The more unscrupulous the henchman, the more ruthless he will be on the leader's behalf. Weakness, vulnerability, unscrupulousness become qualifications.

The arrangement works when the going is good. No one now is strong enough to harm the leader. But no one is strong enough, in the sense vital in a democracy, that is of having legitimacy, of commanding esteem, to help him when a crisis erupts.

But there is an even more consequential change: ideals, the commitment to higher objectives, to the interests of the group as a whole; these are *restraints*, they are the banks that enable the river to flow. When these are replaced by the interest of an individual and his little circle, the only glue that binds—followers to the organization as much as members of his circle to the leader—is the prospect of spoils. Pillage commences. Legitimacy begins to dwindle.

The leader and his henchmen are unable to stem the decline. Enervated by luxury, by pelf, capable now only of giving directions to others, they are no longer able to toil in the field. They give out calls: "All workers shall hold *dharnas* at district headquarters against price rise . . ." "The *abhiyaan* against the corruption of this Government shall be taken to every village, to every hamlet . . ." A few desultory meetings are organized. People are bussed in. The *abhiyaan* disappears as a rivulet in the desert. No one even notices that it has been abandoned. At best, the leader sets out to repeat the performance that had once secured attention—the "struggle", the fast-unto-death-between-meals, the *yatra*. But you can't make the souffle rise twice any more than you can fire the same bullet twice: the very fact that nothing was done after the first performance, robs the repetition of all credibility. Some "emergency" is invoked to give up the *yatra* midway.

The leader convenes meetings of his "core group", the "Working Committee", the politburo. Members of these private coteries hold further meetings with their own private "core groups" . . .

Everyone but the "core group"

The factor most responsible for the rout has been the state to which the leader and his circle have reduced the Party *as an organization*, but that is the one factor which the leader and his cohorts will not admit into the discourse. Is the Party seen as, *is it in fact* different from the others? Are its candidates any different? Is every unit of the Party not riddled with factionalism? That these are the reasons for the setback is manifest to all. But the leader and his circle would have none of them—for that would immediately raise further questions. The Party is no longer different from others? Who has allowed the Party to sink to this level where it cannot be distinguished from the very parties it has been denouncing? The candidates are no better than those of the rivals? Who has selected the candidates? Factionalism has been allowed to continue? Each faction in a state has a line to some ringleader in the central cabal? Who has allowed the factionalism to fester and swell?

They blame *others*—the rival Party; the third Party that has stolen their vote; the accidental reason on account of which a section whose vote was to have split got consolidated; the youth; the middle class; the poor who voted on money, the rich who did not vote; the holidays on account of which so many went out of town; the disenchantment with the Party's ally in one state, the absence of an ally in the other; the anti-incumbency factor against us in this state, the advantage that the rival party had in the adjacent state of being in office and thereby being able to use the state machinery; the "shameless" use of money and muscle by the rival . . . In a word, everyone and everything *other than themselves*.

Ideology recast

The list of *others* on whom blame may be pinned, exhausted, the leader and his circle turn on the ideals on which, on the "ideology" for the realization of which, the movement had commenced, the Party had been founded. So, one day they lunge for a "hard" formulation to win back the "core constituency". The next, they lunge for a "soft" formulation. One day they are stressing "our religion", the next "our culture"; one day it is "return to basics", the next "changing with the times"; one day they are declaring their faith

in our history castigating persecutors of the past and their current heirs and apparitions, the next they are swearing by inclusiveness and geography . . . One day it is "Reforms", the next "Reforms with a human face" . . . One day it is "peasants", the next "workers", the third the inclusive "toiling masses" . . . And they are never short of quotations from the original leaders to justify each twist.

What the leader and his speechwriters convince themselves are sparkling new formulations, are, in fact, just clichés. "The Party stands for a strong and prosperous India", but which party doesn't? "The Party will make the twenty-first Century, India's Century", but which party says it won't? Can one not go on adding to that declaration, and it would be just as acceptable? "The Party stands for a strong and prosperous India, an India at peace with itself and the world"? "The Party stands for a strong and prosperous India, an India at peace with itself and the world, an India in which no one goes to bed hungry"? "The Party stands for a strong and prosperous India, an India at peace with itself and the world, an India in which no one goes to bed hungry, one in which the benefits of growth are shared by all . . ."?

The leader and his circle convince themselves that they are making their Party current, that, by the new formulation, they are going to attract new chunks. In fact, they convince the people at large that they believe in nothing; that their proclamations have all along been just opportunism dressed up; that they have no core—there is nothing that they will desist from doing if they see some advantage to themselves in doing it, that there are several things that just must be done but which they will not do lest some slight, momentary disadvantage befall them.

The people put no store by the words of these persons. They want to know, "Can this lot bring these goals to fruition any better than the other lot? Is the leader, are members of his circle living these ideals?" The ideas and ideology of this lot, rather the ideas on which, the ideals for the attainment of which this lot was founded no longer permeate or radiate to those who are outside the Party or organization. Even when they accept those ideas and ideals, those outside strain to hide their original source. Recall the net effect of the innumerable gurus and organizations that have been speaking for Hinduism in the last fifty years, or Marxism-Leninism and social

justice for that matter: how well the words of Toynbee fit those who, almost furtively, live Hinduism today or do their bit for a more just society! " . . .Under these sinister auspices, such selective mimesis [imitation, adoption] as occurs takes place on the barbarians' own initiative [in our context, on that of those outside the Party or organization]. They show their initiative in imitating those elements which they accept in a manner which will disguise the disgraceful source of what has been imitated . . ."[1]

Character changes, relations are transformed

By such twists and turns, the leader and his circle, far from inducting new adherents, discredit ideology itself; they turn people off even the talk of ideals. Another factor smothers ideals and ideology. The movement became a Party. That Party has since become a mere electoral machine. But as general standards deteriorate, the Party has to "adjust"; it has to go in for "compromises". The sole object is to attain office. And the sole criterion for that is numbers. Hence, winnability is all. Whoever can win a seat, be he a criminal or blackguard who has just deserted from the rival camp, is the one whom the Party fields. Three consequences follow at once and inevitably. First, the proclamations of the Party—ideals, ideology—reek more and more of hypocrisy. Second, the people at large see that this Party is no different from any other. Third, and this is what has the deepest consequences for the future, the character of the Party changes forever. Everyone above and below comes to rely on the clever strategist, on the deceitful for he leads them to victories—all the more so as one of the skills of the strategist is that, if the Party wins, everyone is made to notice that *he* was the strategist who brought about the victory; and, if it loses, everyone is made to forget that he was the strategist. Either that clever person or someone even more deceitful rises to the top. Gandhiji's warning comes true: "An organization that relies on rogues to do its work shall soon have rogues at its helm."

But the transformation doesn't stop there. Indeed, it has just begun. For the character of the one who has wrested the top stamps

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[1]Arnold Toynbee, *A Study of History,* abridgement of Volumes VII–X, D.C. Somervell, OUP, London, 1957, p. 123.

itself on the entire organization, on every level of the entire organization. His very "success" legitimizes ambition, greed, intrigue, double-dealing. "If he doesn't have what it takes to capture even a party," the thesis runs for shoving aside the scrupulous, "if he doesn't have enough fire in his belly to capture even a party, how in hell is he going to lead the Party to capture the country?" Ambition, greed, intrigue legitimized, every one becomes every one's rival. Every one comes to suspect every one. That irreplaceable adhesive, Ibn Khaldun's "group spirit", is rent asunder.

Both relationships, the one of the leader with his circle as well as that of members of the circle with each other, are transformed. Every relationship is now pure and simple barter. The leader seeks out not colleagues but *clients*, not partners but *dependents*, not associates but *instruments*. He uses the henchmen, of course. But they also use him. They are nobodies without him. But with him, even with the rumour that they are close to him, they can strut around, and rake in the perks. They strain to be useful to the leader: helping one relative of his out of a difficulty . . . helping another relative set up a business . . . The leader demurs, "Is this really right? . . ." They tell him what he wants to hear: "But why should the young man suffer just because he is your son?" The leader allows himself to be persuaded, after making sure that everyone has seen him hesitate. They now have him entangled into those strangulating "interlocking webs of mutual complicity". He is as dependent on them, as they on him. Recall the cow-and-calf symbol of the Congress(I), and what the then Chief Minister of Haryana, Bansi Lal said during the Emergency, after he had helped ram through Sanjay's Maruti plant, *"Jab bachchda mere haath mein hai, gayiyaa kahaan jaayegi?"*

But, of course, henchmen don't just work to ingratiate themselves with the leader. They use their proximity to him to seize spoils for themselves. Indeed, in the organization—and the more "disciplined" and hierarchical the organization, the more certain this is—they are the ones who are liable to make a grab for the riches because, even if evidence were to erupt in the public domain, the leader is least likely to act against them. They are the ones he is certain to shield.

What had begun as a relationship of devotees who had gravitated to an idol, of persons who had gravitated to the leader because he was devoted to a mission, because he personified ideals, becomes a purely transactional relationship. The first to erode is reverence for

the leader. Next, the fear of him. That has but to happen and anarchy breaks out in the organization, a free-for-all. The leader lectures, he admonishes, he threatens "disciplinary action". Members listen. They even make a show of cowering. And resume their skirmishes. The leader wrings his hands, "The Party was never like this . . . Nobody listens . . . Indiscipline . . ." Even as he does so, he is *externalizing* the state of affairs—as if he himself has nothing to do with what has come about.

The Zulu proverb

As relatives and henchmen acquire properties on the sly, as they run businesses *benami,* the Party loses its ability to fight the rulers. The leader knows, the henchmen know that the rulers know. So, they take up "issues", but never push them to the point where the rulers will be really inconvenienced. As the Zulu proverb has it, "A dog with a bone in its mouth, can't bark."

Indeed, they go farther. They cultivate links *sub rosa* with opponents, in particular with rulers. They say they are doing this so as to give the country "a constructive alternative". In fact, it is for getting a few crumbs from the rulers' table, at the least to keep out of trouble. Rulers readily flatter them by making a show of paying attention, they readily steer a few contracts their way, and thereby gain control over the very Party that was to watch over them.

The sequence weakens the leader *vis à vis* the rulers. It weakens him just as much *within* the Party: no leader who is crooked can straighten others.

The henchmen

These henchmen become the leader's eyes and ears. Indeed, his "reference group", they function as the pliable conscience he now wants. They feast off him when he is in office. They dissuade him from quitting when he clearly should. Truth be told, that takes less doing than one might imagine: at such turns, the leader is only waiting to be "persuaded". They pander to his vanity exactly as Ibn Khaldun describes: by heightening the pretences of authority around him, even as they rake up the fruits for themselves.

But the henchmen don't try just to be useful to the leader. *Their power, their indispensability depends on making the leader feel*

insecure. So, they are always conjuring up news of conspiracies. They are forever isolating the leader, sowing doubts in the leader's mind about one and all, in particular about his former comrades.

It is not that the leader never sees the cost these henchmen are bringing upon him. From time to time, evidence bursts forth that makes the continuance of one of the henchmen completely indefensible. The clamour against him becomes so insistent that the leader is brought to the brink of sending him away. Quite apart from the danger that exiling one who knows so much may entail, the leader is easily persuaded to hold his hand: "But they are not after me. Their real target is *you*. The moment you show that you can be pressurized, they will come after you . . ." Recall the time it took for Mrs Indira Gandhi to act against Antulay; recall how Rajiv hung on to Ottavio Quattrochi . . .

The ordinary members watch with dismay as the sway of these henchmen envelopes the leader, and, just as much, as their pillage begins to discredit the Party. But at this stage they shiver at doing anything: they do not speak out; they do not collect evidence. They wait for something to turn up. They wait for someone *else* to expose and nail the henchmen: Ibn Insha was right,

Haq achcha, iske liye
Koi aur mare, to aur achcha . . .

They wait for the leader to do *something* "at least in his own interest." Of course, the leader does nothing. He is immersed in his interests of the moment, and *"kul mila ke"*, the henchmen are useful agents.

Precisely because his failure to act against the henchman who is causing him so much avoidable trouble makes him seem weak, the leader just *has* to act against others: to show that he *is* strong, that he will *not* tolerate "indiscipline", that he *can* and *will* quell "insubordination". He lashes out—naturally at persons outside his circle. What were mere suggestions from them are projected as criticism; what was criticism merely to arrest the decline and induce reform is projected as disloyalty . . . Everyone sees through the vehemence: everyone sees that the leader has an elastic ruler—a long one for his cabal, his instruments, a much shorter one for others.

The transformation cannot be hidden from the people any more than a grating cough. The group begins to lose legitimacy.

Party constitution? What constitution?

One norm after another, one rule after another is set aside. The so-called constitution of the Party provides that posts—*every* post at *every* level—be filled through elections. In fact, at each level, each gathering hails the leader, and "unanimously resolves" to leave the choice of office-bearers to him.

The Party hierarchy comes to consist entirely of nominees of the leader, and of those who, for the moment, have managed to insinuate themselves into the good books of the leader. Tickets have to be distributed for the forthcoming elections? The "state leaders", nominees all, "recommend" some names. Neither the leader nor his nominees in the central organs have any system of independent verification. Lobbying, insinuation, come to count more than analysis; collateral "persuasion" more than evidence; bargaining more than deliberation.

The nominees don't do well? There was *dhaandali* in the selection of candidates, someone shouts. He is smeared with motives, drowned with innuendo.

Meetings follow meetings. In each, ritual replaces substance. But the rituals, the routine are not for nothing. The ritual, the same "state-wise" reporting, is a *device:* a device to dodge the issues that are on everyone's mind. *Abhiyaans* follow *abhiyaans*. They too become just routine.

The losses mount. Calls for honest examination. For accountability. The leader and his circle "swing into action". They galvanize their nominees in the states. "No, no. We can't afford any witch-hunt," these nominees of nominees declaim. "Elections are coming up in our state. Inquiry-*shinquiry* will cause all sorts of mud to be hurled. The media will be full of it. Our chances will be destroyed . . ."

As further losses occur, an inquiry to fix responsibility is at last instituted. But who is to inquire? The leader and his circle, who, after all, are responsible for all the decisions that have led the organization to this pass, are the ones who alone can decide. They pick from among themselves, or, if the façade of "independence", of "objectivity" has to be maintained, their weak men and henchmen.

The inquiry never sees the light of day. In any case, no reform that may have resulted from the inquiry is ever visible. Perhaps for good

reason: in all probability, each inquiry has concluded that no individual was responsible. The shortcomings were "systemic"!

The fundamental reason

This is the crucial factor: *the decision to reform or not has come to vest in the hands of the very persons who will be finished were the reform to take place.* Recall the two examples we encountered at the beginning: the civil service that stymies every commission's recommendations, and the legislators who do not rectify the manifest lacuna in the law which allows those convicted of murder to continue as members. Hence the paradox: the stronger that the leader and his circle appear, the weaker is the organization.

Factions mushroom

As "power" now flows solely from the Leader, factions sprout even within this circle—tiny though it is—around him. All the more so because the only glue now is lucre, pelf. The courtiers are now an everchanging kaleidoscope of "tactical alliances": three join, get the fourth; then two of the three join and get the first . . . To each, the nearest neighbour is the greatest enemy. At every turn, each of the sudden allies prides himself on being clever, he preens himself on being successful. In fact, even as they succeed against each other, they are undermining the esteem of the people and the workers of the Party itself for the circle as well as the leader who presides over it.

The leader frowns, but inwardly foments the factions; at the least, he does not scotch them. As each subaltern jostles to be closer to him, he feels important, indeed he feels indispensable: "They are not yet mature enough to manage on their own." He sees himself as arbiter, as the dispenser of favour and frown, as the healer.

But the jostling, the ever-shifting alliances and ruptures among the courtiers break through the curtains of the court. Three consequences follow. The character of the leader is soon evident to all: that he is the one who is fomenting factions, that he is the one who is playing favourites. Second, the courtiers defame each other successively: soon enough, people know enough about each of them to believe the worst of all of them. Third, both because the leader has been seen for what he is and because each of the

subalterns has shown himself to be but a schemer and plotter, the whole—the Party so-called—loses the esteem of the people.

As factions fight, as subalterns spread stories about each other, the leader moans, "The Party was never like this . . . When we began the Party, we toiled without any expectation at all that we would ever be in power. We just toiled. Today, everyone expects rewards, office, perks. The simplicity of our leader of the time, his utter selflessness, his humility . . . And this business of factions, and back-biting, it was unheard of . . ."

Even as he declaims, the audience whispers: "Is *he* simple, selfless, humble? Is *he* not the one who has surrounded himself with a coterie? Is *he* not the one who is fomenting factions? What was *he* pursuing, for what did *he* make us toil if not for his and his chosen handful securing high office?" In a word, each time he invokes that distant leader, he reminds the listeners how far he has himself come from that sainted person. He reminds listeners how, under his direct stewardship, the Party has been converted from being a crusade to becoming an instrument for his aggrandizement and that of his chosen handful.

The slide accelerates

Cleverness in the leader produces cunning and deviousness among his henchmen. Cleverness, cunning, deviousness at the top produce feigned loyalty among followers. The followers stick to the Party only in the expectation that their chance to grab the goodies will also come one day. But as the Party suffers successive defeats, that prospect recedes. Seeing that this is not the vehicle to lucre that they had imagined, the followers lose enthusiasm. Chunks break away. To other parties—where, of course, the same sequence is in progress.

That the same sequence is being enacted in other parties makes it that much more difficult to arrest it in this Party. The rival party is fielding a criminal. Only a more audacious, a more resourceful criminal can defeat him. As winning the requisite numbers is all, those who urge that tickets be given only to persons of integrity and competence are easily shoved aside as unpractical "idealists"; in the very Party that had been founded and nurtured by idealists, the word becomes a pejorative.

Such adoption of what is common to others is triply harmful to a Party that grew out of a movement, that has sworn fidelity to ideals. To start with, it loses its claim to being different from the others. Next, its culture, its very character changes. And third, if by chance and for reasons that have little to do with its new character, it occasionally wins an election, its members are not able to handle the complex tasks of governance any more than those "boors in office" were able to manage the States they founded after destroying Rome.

These accidental victories, however, have consequences for the Party itself also. The victories come about from time to time, for reasons that are independent of the drift in the Party—like the strength in an area of the candidates as individuals, or the particularly perfidious conduct of opponents. But the consequence is that the leader and his coterie feel vindicated in their ways. Those who had been warning of what will befall the Party should it continue in the direction in which it has been proceeding are now even more easily put down as the perpetual whiners, the disgruntled, frustrated alarmists, the congenital pessimists.

Even as the Party wins the odd contest, it continues to lose that vital intangible—esteem among the people. It is seen as being more and more like any other conglomeration. Every memory of the movement from which it had originated, every memory of its original leaders only reinforces this inference. The Party no longer claims that it is different from the others. On the contrary, *the other parties* hurl that erstwhile claim at it, as a taunt.

The Party which was a movement has become routine. Routinization robs every *abhiyaan* that it launches of meaning. It dwarfs everyone. How true the lesson that historians hold out:

> Early Roman history has been described as the history of ordinary people doing extraordinary things. In the later Empire it took an extraordinary man to do anything at all except carry on a routine; and, as the Empire had devoted itself for centuries to the breeding and training of ordinary men, the extraordinary men of its last ages—Stilicho, Aetius, and their like—were increasingly drawn from the Barbarian world.[1]

But the other parties are enacting the same sequence. They don't have any extraordinary men either that this Party may swear in.

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[1]R.G. Collingwood, cited in Somervell, *op. cit.*, p. 130.

Yet *something* has to be done to shore up its fortunes. The Party knows its own too well. They have been around, and have not brought victory. Those in the rival parties may not be extraordinary, but they have the attraction of being in *other* parties, and of their innards being lesser known. The Party, therefore, inducts persons who are *like* members and leaders of the parties it has hitherto denounced. Better still, it inducts persons who are still members and leaders of those parties. To little avail. The entrants are seen as turncoats. That the Party's claim to being different is fake is reinforced. Those who have served it loyally for decades are incensed.

The clever spinners

The leader, cocooned, does not notice the ground slipping away. In part because he is by now surrounded by clever courtiers. The moment a victory turns up, they are able to produce a dozen reasons to show that it is due to the leader, and, incidentally, themselves. The moment a defeat occurs, they are able to produce two dozen reasons to prove that it is due to others. And another score why the defeat is due to special, transient, exceptional, local circumstances, and, therefore, is no cause for worry.

The Party's electoral losses resume. They accelerate. Fewer and fewer new recruits join the organization. Those who join, join for reasons other than the ideas and ideals for which that Party or organization once stood; they do so, for instance, in the belief that doing so will get them jobs, posts, contracts.

The leader and his circle could easily see the portent, if only they would. Are only the already-converted coming to our meetings? Are they coming spontaneously, or have we to bus them? How many uncommitted, new listeners are coming to our meetings? Indeed, the leader and his circle do not have to go even that far. They just have to look at their own diaries: how many persons *outside our circle* have we met in the last week? But they don't see. The organization is busy talking to itself. Those within the circle are busy knifing each other. And the leader? He is enveloped in an impenetrable fog of self-satisfaction: the day's photo-opportunity, the day's conclave, the day's meeting of the "core group", the day's meeting of "office-bearers", the day's meeting of "allies", what a fulfilling day . . .

The Party stops hearing those outside the Party. The leader stops hearing those outside his circle of weak men and henchmen.

Many factors continue to obscure the fact that the ground is shifting from underneath the Party. For a while, to cite one factor, the "core constituency" of the Party continues to support it: out of habit; out of loyalty to the old ideals; out of an obstinate consistency. But the leader and his circle reassure themselves, "Our core constituency is intact."

They draw an operational inference: in the belief that doing so will solidify the support of this "core constituency", they reinforce earlier slogans so as to demonstrate that they remain committed to their original "ideology". But each time they proclaim the slogans, they remind listeners—all the more so, this "core constituency" as it remains truly committed to what those slogans had promised—that, when the leader and his men had the opportunity, they did nothing to materialize those promises. Regurgitating the slogans thus does little to mobilize the "core constituency". On the other hand, it consolidates the opponents. And another thing has happened in the meantime: a host of new elements have entered the arena, for instance, the young. Each time the leader and his coterie proclaim those old slogans—"Socialism" of the Congress; "Hindutva" of the BJP; "Marxism-Leninism" of the assorted Communists—they remind these new entrants that they and their Party are an obsolete bunch. And then, suddenly, one day, a day like any other, that "core constituency" also walks away.

Kafirs and apostates

At each turn, well-wishers counsel reform, they counsel that the Party change course. But by now the leader is the Party, most certainly in his eyes. Therefore, he takes every suggestion to be a rebuke, an assault on him personally for conducting the affairs of the Party as he has been conducting them. When the suggestion-which-is-censure comes from an outsider, the leader rejects it as the ranting of a ***kafir,*** of one who has never believed, who has never committed himself to the cause. When it comes from one who undeniably has been part of the crusade, the leader dismisses it as being the rant of a ***murtad,*** an apostate, as the rant of one "who has crossed the

barricade". His reflex is to insulate himself still more into an even tighter circle.

The leader whose example used to be inspiration; whose mere presence induced attention; whose glance, whose whispered suggestion used to ensure compliance, he now stands on office, on rank, on the years he has spent "in the service of the Party". He *demands* respect, a sure sign that he no longer commands it. Another sign, a sure one that what, in the infinitely vaster context of civilizations, Arnold Toynbee had called "the creative minority"—the small group that brought the civilization into being, and presided over its flourishing—has become "the dominant minority", the small group that chokes, and presides over the ultimate disintegration of the civilization.

The circle becomes tighter and more and more homogeneous, more and more subservient and sycophantic.

As the leader and his cohorts move within this ever-narrower circle, they see less and less of what is going on outside the circle, they hear less and less. This blindness and loss of hearing are brought about all the more swiftly the more hierarchical is the organization, for, the greater the respect for hierarchy, the more the leader and his circle are not just looked up to, they are *venerated,* they are treated as oracles, as paragons of virtue and dedication; and the more disciplined is the organization—for, the more disciplined it is, the less do subordinates speak the whole truth to their seniors, and the less they think for themselves: "Sir, *hamare yahaan to soochnaa aayi, sochnaa band,"* a stalwart once explained to me.

Ambition to greed to jealousy to unscrupulousness

As the circle narrows, animosities within it become sharper. Rivalries become more intense: for now, all that each has to do is to do two or three in, and he has the top job. Lust is rationalized: "But you have to have fire in the belly. Otherwise you shouldn't be in this game."

Insatiable ambition triggers unquenchable greed.

That greed incites unremitting jealousy.

And that compels ruthless maneuvers.

As others play by the rules, the one who has shed all scruples triumphs. A vital resource turns out to be the rivals' respective reach into cabals *beyond* the Party. The one who can garner more

money from prospectors and clients; the ventriloquist who can malign through surrogates and thereby frighten others in the circle, as he has a mass-base among half a dozen journalists. This kind of reach proves decisive.

Two consequences follow. Cunning, jealousy, unscrupulousness at the top permeate down to every pore of the organization. The Party becomes, to pluck Toynbee's words, "a moral slum". True, some young idealists still join it. But by the time they rise to any position of authority, their edges have been rounded off, they have been fully domesticated; look not just at our political parties, look at the civil services. And this is the character of the whole that the people see. The Party is further delegitimized.

The process is hastened if by chance the Party is swept into office. For such a bunch cannot but be venal and corrupt in office. But there is a twofold difference. When some individual is picking pockets at a railway platform, little happens even if he is caught: he is an individual; the infamy is confined to him. But when, as a member of a Party and government, he is caught, the entire Party and government are tarnished. Second, we are all judged by the ideals we proclaim. As this Party and government have come out of a crusade, as they have come to office proclaiming that they will clean up the mess, the stain is that much deeper.

All this is brought to the attention of the leader. In fact, there is little need to bring it to his attention; the facts burst out day after day, even the cloistered leader cannot miss them. But as these concern his appointees, he is the indulgent father: "You may be right about him," I was once told, "but many say that if one becomes a minister and does not do these things, then where was the point of becoming a minister?"

The example spreads. The exemplars become bold. The bold become brazen.

Seeing the Party out of office, with its knifing and defaming of each other; seeing the Party in office, venal and corrupt even if less than its rivals, the people conclude, "They are all the same. This Party is no different."

Its USP gone, the Party continues to lose ground. The cries to stem the rot become shriller. They demand that responsibility be fixed. But the decision to fix responsibility is in the hands of the very ones who have brought the organization to that pass.

The fools, and the real fools

The leader steps forth. Told by his henchmen that once the process starts, the clamour will reach up to him, he insists that no individual is responsible, that the tradition of the Party has always been "collective responsibility". But was the "collective" at all involved in decisions? the laity demand. The leader raises the ante: if any one person is responsible, I alone am responsible. That silences calls for accountability, for who can say that, as, on his own telling, he is responsible, he make way for others?

He and his circle have little difficulty. Each post at every level in the Party has been packed with weak men or henchmen. When the voices for change become shrill, all that the leader has to do is to signal the office holders to "give their views". Who can say that ***their*** opinion is worth less than that of the deviants? After all, they are the ones who are general secretaries and secretaries, Presidents and Vice Presidents of state units . . .

Nor is that "strength" confined to the immediate present. The leader and his coterie control the loaves for tomorrow too: who will get tickets for elections in the future, who will get inducted into posts within the Party . . . All these are the prerogative of the leader and his circle. They proffer these, and thus buy prospective silence.

That he is in total control of the organization dooms the leader, and the organization with him, all the more certainly: precisely because Rajiv Gandhi so completely controlled the situation ***within*** Parliament, he did not see that the situation *outside* had slipped completely out of his hands.

The lay-members run from one *mansabdaar* in the inner circle to another. The latter are bitter rivals of each other, no doubt, and it is in this—the bitterness and rivalry—that the lay members rest their hopes. But those in the inner circle are *one* against the outsiders. Moreover, there is a certain naivety in that running: the followers are appealing to these worthies in the name of values and ideals which those in the circle have long abandoned. The ***mansabdaars*** listen politely. They insinuate that the other member is responsible. As the followers leave, they exhale, "The fools . . ."

In turn, the followers, steeped by now in the same deviousness and hypocrisy, also learn to just listen politely. And go on doing

exactly what they were doing. Solely to advance their personal fortunes.

The *real* fools, the ones who still adhere to the original ideals, try once more to salvage the Party. To no more effect than they would were they "to try and dam a river with their bare hands".

The hangers-on in the inner circle have no difficulty in undermining the counsel and warnings of these fools: they smear them with motives. The challenge that has been mounted is to the culture of intrigue, of personal aggrandizement, of contracts and nepotism, of cabalism. But the henchmen drown it in smears, "He is saying all this only because he is frustrated . . . Only because he has not been given the post that he thought is his by right . . . " Actually, the hangers-on have even less than no difficulty for the leader is only too eager to believe that the warnings are impelled by base motive.

Men of little faith

The defeats and setbacks about which these would-be reformers are wailing become tests of faith. Instead of instituting remedies, the leader proffers homilies: "Ups and downs are a part of life," he intones. "We have gone down earlier also. But we have always risen again. Put what has happened behind you. Brace yourselves for the next battle." That would be fine *if, and only if,* in the meanwhile the factors, the personnel and culture which had brought about the defeat have been changed. The fact, of course, is that these declamations are hurled at the members for the opposite purpose: to smother the demands for change, to kill every proposal for reform. For reform, the time is never right. When the Party wins, there is obviously no need to change; after all, the leader, his team, the ideology have brought victory. When the Party loses, casting blame is destructive, it is defeatist. One must unite, look ahead . . .

The declamations become sharper, they now aim not at the proposals but at the ones advancing the proposals. "We have seen days that were so much worse. But never did we lose heart. Never did we hear such voices of defeatism. Now we can see who has faith in the Party and who does not . . ."

Nor is it just a question of faith in some abstraction, the so-called Party. The point at issue is faith in the leader. This is tested not when the leader is triumphant and right; after all, everyone will hail the

leader when he is triumphant and right. The real test is when the Party has fallen into a ditch, when the leader has brought defeat. Only the one who stands by him at such times has faith in him!

That is the new thesis.

As a result, everyone who points to errors that need rectification has not just lost faith in the Party, he is, by definition, personally disloyal to the leader. "What I have heard today, has pained me," the leader tells the assembly, that is, the one who was making suggestions has *inflicted pain* on the exalted leader, the ***kul devta***.

To begin again

It is most certainly not the case that the organization, in this case the political Party must inevitably descend and disintegrate. Nor is it "fate", or some external "law of nature" on account of which the political Party goes down. Of course, external factors may accelerate its decline: we noticed, for instance, that the decline is made more likely and is hastened when the political culture itself has become such that all other political parties are also proceeding along the same furrow. But such facilitation, so to say, by external factors apart, the reasons on account of which the political Party declines are internal to it. In particular, they concern the deterioration of the political Party *as an organization*.

And the reason why it becomes almost impossible to stem the deterioration of the Party is that its organization is at all times in the hands of persons who would be most inconvenienced, who would almost certainly be dislocated were the changes which are necessary for its survival to actually come about. The key to turning it around, to arresting its descent, therefore, lies in the organization somehow getting liberated from this handful.

This can happen, it can be brought about in several ways:

- For instance, a leader may acquire control of the organization by accident, but, having acquired control, may feel himself to be so hemmed in by the continuance of persons who have dominated the organization till then, that he or she throws them out and reconstitutes the top leadership of the Party. Recall, as an instance, the way Mrs Indira Gandhi threw out the "Syndicate" in 1969.

- It may happen by control falling into the hands of a new princeling who has yet not been domesticated by the organization, who still retains some of the idealism of youth, some of the ideals and goals that originally inspired the Party and the movement out of which the Party was born: recall, for instance, Rajiv Gandhi at the time that he gave his speech in Bombay against the sway that "power brokers" had acquired over the Congress. But in such an instance, as Rajiv Gandhi's own example shows, the princeling must persevere. In Rajiv's case, the establishment soon domesticated him and his initial impulses for reform were successfully neutralized.
- Or it may be that the world moves so swiftly and so completely away from the Party and its ethos, and it becomes so totally irrelevant that the irrelevance bursts even upon those who have been blinded by its hierarchies, its rituals, who have remained hitherto in the thrall of the leader and his henchmen. They rise, "We have nothing more to lose. Let us make one final effort."

Only when the ordinary members or at least a significant minority among them are prepared to risk being cast in the wilderness once again—a risk that will become easier for them to grasp if some catastrophe befalls the organization and it loses so completely that there is no option than to begin again—it is only in such an eventuality that reconstruction can begin. In such a circumstance, it is almost as if a new organization is being started.

One way or another, the organization has to be liberated from the vice of the leader and his henchmen, and the organization has to be rebuilt anew. And for that to commence, the entire leadership at the top, *as well as every nominee of it at every level* has to be thrown out and a new lot put in place. That is the first step.

It is a necessary step, of course. But, as we have seen, it is not a sufficient step. The cycle can commence again, and very soon, unless some novel ways are instituted by which the leadership is perpetually renewed; unless those little circles that are certain to form are broken again and again; unless ways are instituted so that advancement comes to depend on work, on competence and integrity, on dedication to the original goals of the Party than on the new virtues—intrigue, cunning, unscrupulousness.

13.

"... Blunderland"

Shekhar Gupta: My guest is one of my most illustrious predecessors at The Indian Express, *one of our leading public intellectuals of all times . . . at a very interesting time, juncture for yourself and your party. Arun Shourie, welcome to* Walk the Talk.

Arun Shourie: It is a pleasure.

Shekhar Gupta: The Chinese say 'May you live in interesting times'. Are these interesting times for you and the party?

Arun Shourie: Actually, I feel quite distant from the party. I must confess that like all other parties it's now, a party of three, four persons for the projection of three, four persons. There is a line of Firaq (Gorakhpuri), *'Woh yaad bhi kam aate hain, ab dard bhi kam hota hai'.*

Shekhar Gupta: The line you like to use all the time, 'Raat gaee, baat gaee'?

Arun Shourie: *Haan, woh kal ke baad!.*

Shekhar Gupta: Why the disillusionment?

Arun Shourie: From Atalji's (Bihari Vajpayee's) departure, his withdrawal and what you see now . . . In every sphere of life, there is a great pygmyization, not just diminution, of leadership . . . That makes a great difference. And then artificial controversies (that are fomented)—Hindutva and so on. If you ask what Hindutva is, (all they can say is that) the Supreme Court has already said it is a way of life. Is Islam not a way of life? Is Christianity not a way of life? Is the addiction of a drug addict not a way of life? So, what is this? People who can't spell the word, probably while rushing from one dinner party to the other, keep saying, 'I am committed to Hindutva'.

Interview with Shekhar Gupta, Editor-in-Chief, *The Indian Express*, for his programme on NDTV 24/7, *Walk the Talk*, August 2009. *Transcript prepared by Mebraj D. Lone.*

So these artificial controversies are coming up and are contrived, only to give a signal somewhere—'See this man stands by our ideology', or it is to put somebody else in the wrong and on the defensive.

The Arabs have a phrase: I talk so that my neighbours can hear. Here, so that my uncles can hear. That is a Shekhar Gupta phrase.

Shekhar Gupta: Well, I said it in a different context. I said the history of the Express *shows that it had more uncles than parents. So, has this been building up?*

Arun Shourie: Yes, of course. The way decisions came to be taken from time to time . . . things became confined to fewer and fewer persons. When the leaders feel comfortable talking to fewer and fewer persons, they lose hearing because they don't want to hear something contrary. And this has happened not just here, not just in this party, but in every party, at every level. Therefore, at each level, everybody (at the top) has a factional line to every unit (of the party). And when he gets some information from somewhere and gives it to the central leadership, in every party, they (the leaders) have no way of cross-verifying that information.

Shekhar Gupta: So coteries are also shrinking. Coteries, caucuses. ..

Arun Shourie: Absolutely. In all parties.

Shekhar Gupta: Yours included?

Arun Shourie: Yes, yes.

Shekhar Gupta: So what changed with Vajpayee's, sort of, quiet retreat from the scene?

Arun Shourie: Everything changed. You see, he is an inclusive person. Firstly, the most important feature I felt about him always was that he is a good man. He will not hurt another person. And, that came through to the country. Second, he won't get distracted by these foolish, contrived controversies. And third, he is a very, very shrewd judge of men. And fourth, he has a core—there are certain things, whatever the costs you show him, he will do them.

Shekhar Gupta: And certain things that he will not?

Arun Shourie: He will not do them, whatever the advantages that you show him. But then (there are) persons who listen to the last man who met them and change their view. This used to happen in the Government too. For instance, in telecom, a proposal would be put

forward and some friend would go and meet some X and Y and suddenly the view would be changed. *Arey bhai,* you have approved it, and today in the Cabinet you say something else. So many instances happened and then Vajpayeeji would stabilize things. And he has a natural scepticism, a very important quality in a leader. That is, if you tell him something, he will wonder 'why is he saying this?', 'why is he saying it now?', 'what will happen if I do the opposite?'

He will reflect on it but, then, when he takes a decision, you will not be able to shake it. But all that is missing now. There is no ballast. And so, when your authority goes on eroding, you suddenly feel, 'I must show, "Me Tarzan, me Tarzan". So, get rid of Jaswant Singh, get rid of . . .

Shekhar Gupta: Vasundhara Raje Scindia . . .

Arun Shourie: Vasundhara. And, not only that. You take a decision and don't own it—'What can I do? So and so pressed me.' On every matter this is happening, maybe in the Congress too. At least there, there is one Supreme Court, at least people fear there is a Supreme Court. This unfortunately is the reality and unless they come out of it, a very valuable institution will be just going . . . *Jaise woh patang kat jati hai na* . . . So it is a *kati hui patang*. The string snaps from the kite. Then it just, sort of . . .

Shekhar Gupta: Goes into oblivion or people come and grab it . . .

Arun Shourie: Grab it or whichever *jhonka*, from whichever direction the breeze comes (it drifts that way) . . . The BJP is, in my view, a *kati patang* today and unless it is got hold of swiftly . . . I don't see many people within the party at the moment who have the moral authority left to be able to do it. If anybody can do it now, it is only the RSS people. When they come in, then there will be other consequences also.

Shekhar Gupta: And these may not be all good?

Arun Shourie: Well, could be, maybe. It is to be seen how the RSS itself evolves. But I have been pleading with them for a long time, 'Please stay out of policy. You are not in touch with policy affairs. You watch the conduct of individuals.' After all, the BJP is the most visible face of the RSS *parivar*, so called, in the public eye. If a BJP person is caught taking cash for (asking) questions (in Parliament), then the whole thing becomes suspect. Just imagine BJP people in

Parliament are showing rupees, and people say, *'Nahin, yeh inka apna* drama *hai'*. That is the credibility!

Shekhar Gupta: So, the real role of the RSS is to be the moral police of the BJP?

Arun Shourie: Yes, that is one point. The second point . . . but the situation now is much worse. They have called me and I have said this to them. Now the situation is much worse and unless they just do what Mao Zedong had said at the beginning of the Cultural Revolution, 'Bombard the Headquarters,' unless you say, 'Here are 10 persons from the states, 10 honest persons, competent persons, persons dedicated to the country,' and bring them and start reconstructing from the headquarters . . . Not one person from Delhi should be there . . . Then you can probably salvage the whole thing. Because there is not enough time to start rebuilding from the ground. That is a 25-year process.

Shekhar Gupta: Did you find some sympathy for this view when you talked to them?

Arun Shourie: Yes, but I don't know what will be done . . . They are very polite, they listen.

Shekhar Gupta: Are some of them also cautioning you to be patient, wait . . .

Arun Shourie: Yes, they do that, but half-heartedly.

Shekhar Gupta: Are they disillusioned as well?

Arun Shourie: I should not speak for them, but who will not be? I think people who are not even members of the BJP will today be disillusioned and greatly disappointed. After all, the party stood for various things and the memory of Mr. Vajpayee's period is very fresh in people's mind. They don't want that party to just disintegrate. Therefore, we can presume, without disclosing anything, that the RSS leadership will also be, may be not disillusioned, but certainly concerned. And certainly Mohan Bhagwat's interview recently does not express great satisfaction with the way things are in the BJP.

Shekhar Gupta: Vajpayee to Advani—was it just a change of style, or change of substance in the very beginning?

Arun Shourie: I don't want to comment on the comparison, but there is no comparison.

Shekhar Gupta: I am not saying better or worse, but was there a change of style and substance?

Arun Shourie: Yes, of course . . . But I told you my prescription is only twofold. First integrity and conduct of individuals; second, bring people from the states. There must be, there are honest people.

Shekhar Gupta: Because they are fighting elections?

Arun Shourie: Not only that. There are persons of substance in states. Bring them to the Centre, but not one at a time. A whole group and then clean it up (the top) and then say we are beginning again . . . No voluntary business. 'Get out. We are bringing in other people'.

Shekhar Gupta: There should be immediacy to it?

Arun Shourie: Absolutely. And not *halaal* but *jhatka.*

Shekhar Gupta: But that is not the way anything is done in India.

Arun Shourie: Well, then, my friend, the consequences are also no different in India than what you see. But I personally feel that the time is coming when events will force the hand of the RSS to act in this surgical, *jhatka* way.

Shekhar Gupta: And the sooner they do it, the less the damage?

Arun Shourie: The damage is now done but at least the chance of survival, resurrection will once again be there.

Shekhar Gupta: And the more they delay it . . .

Arun Shourie: The chance becomes less and less.

Shekhar Gupta: Have you been saying this in a sort of inner counsel to the party?

Arun Shourie: Yes, of course, many times, and to these leaders, individual leaders . . . Everybody is very polite. Everybody agrees (but then exclaims) *'Par kya karen, laachar hain . . . ' Arey bhaiya, humne to itne laachar Rajput nahin dekhe jitney yahaan hain.*

Shekhar Gupta: I know that is true. You have a strong Thakur leader in control of your party.

Arun Shourie: He has a very good voice. An All India Radio voice.

Shekhar Gupta: RSS people are not stupid . . .

Arun Shourie: Not at all. They know what is going on. Everybody keeps saying 'Fascist, Fascist'. I think they are too democratic. That was my complaint to Advaniji also. You are too democratic. *Arey bhaiya,* exercise leadership, authority. Forget Advaniji, even in the case of the RSS, I feel they are too patient and too considerate.

Shekhar Gupta: Are they shy of being seen to be intervening?

Arun Shourie: I think that has also put them on the defensive. Everybody is always saying they are running things and so on. But

there are other considerations also. You cannot begin such operations until you decide that I will now devote three years to reconstructing the party. They feel committed to their other work also. So it is a hesitation, 'Should I take the plunge or not?'

Shekhar Gupta: But if they move in tomorrow, nobody will be able to resist them in the BJP.

Arun Shourie: Nobody. Actually, much of this thing that you are seeing today, (the ban on) Jaswant Singh's book, Jinnah-winnah, actually is because of the nervousness of the current leadership, trying to give signals to the RSS—'See I am standing up for national ideology'.

Shekhar Gupta: They don't even know whether he praised Jinnah or not, more than what some of the others may have done.

Arun Shourie: Well, actually I can tell you. I have written articles for you, and you will see in one of those that the standard textbook of the RSS entitled *The Tragedy of Partition,* by one of the longest serving and firmest pillars of the RSS, H.V. Seshadri—a scholarly book—has a much stronger thesis against the Congress, including Sardar Patel, than Jaswant Singh would ever write.

Shekhar Gupta: How would Vajpayee have handled the situation?

Arun Shourie: Vajpayeeji would just have said 'It is a book.' Actually, there is a very good incident, I will tell you. You know there was a book on Shivaji by an American (James Laine). Nobody had read it. And some people, I think the Shiv Sena or BJP people went, broke things and destroyed manuscripts at the Bhandarkar Institute (in Pune), a great institute for Indic studies. What happened was that Atalji was going to Bombay for unveiling Shivaji's statute at the airport and I was the minister accompanying him. He had asked me to come with him. He said there, with Balasaheb Thackeray sitting there, all the Shiv Sena people sitting there, he said 'The answer to a book is a book, not to destroy and agitate.' So, the answer to a book is a book. You write a different book.

Shekhar Gupta: You don't have to write a book of the same length . . . If Rajnath had to counter Jaswant's book, it would be challenging. But he (Vajpayee) would have defused it?

Arun Shourie: I will give you many instances. For example, you remember (the time) Jayalalithaa's Government was in office and some policemen entered M. Karunanidhi's home and hit him . . .

I remember in the Cabinet everyone was for the dismissal of Jayalalithaa . . . I am one of the very few persons, actually I don't remember another person, who opposed it (dismissing the Government). Then somebody said, *'Bhai, hamare* ally *hain*. The DMK is part of this Government and they are saying, "How can this happen?" We must act, we must be seen to be acting on their behalf.' Atalji said, *'Hamare* ally *hain, hamara kartavya hai unhen samjhana. Unki baat par chal kar talwaar chala dena, yeh to nahin.'*

So, his approach would be, 'You don't like it (Jaswant Singh's book)? Please write another book.' And actually he would have also told them, 'No, no, first read Seshadri's book.'

Shekhar Gupta: Were you surprised by the impatience, by the speed at which the BJP moved (to expel Jaswant)?

Arun Shourie: No, not at all. I think there are several factors which combined. The speed was not even minutes. They just gathered . . . these 25 fellows get together for the *chintan* thing *(baithak)* and a person for whom I have very high regard because of his development work, Narendra Modi, he says, *'Mere liye to badi aafat padi hai. Das September ko mere saat Assembly elections aa rahe hain aur is kitab ke baad main kaise Gujarat wapas jaoon ga. To action hona chahiye.'* And Ananth Kumar pipes up, 'What do you mean by action? Nothing short of expulsion.' So this is all sort of orchestrated. And then the others are told *'Dekhiye jo Parliamentary Board ke member nahin hain, woh zara bahar chaley jayen.'* Within minutes they are told 'You can come back. The Parliamentary Board has decided that Jaswant Singh should be expelled.' So, this is one factor, the apprehension after the Junagarh elections . . .

Shekhar Gupta: Where Modi did badly.

Arun Shourie: Yes . . . That is why Sardar Patel was made the issue. He is not the issue. The *Express* has published every single paragraph in which Patel is mentioned (in Jaswant Singh's book) . . . there is not one derogatory reference at all. You read Seshadri's book and you will find much more on Congress leaders, including Patel, and Patel's own unrealistic assessments at that time. I am an adorer of Patel . . . but the thing was that you make Patel the issue (and then you can claim) 'See, I have protected the prestige of Gujarat, the good name of our leader.' The third thing was, 'Don't make Jinnah

the issue'. Why? Then people will say 'What about the person who praised Jinnah earlier?'

Shekhar Gupta: Mr Advani in Pakistan . . .

Arun Shourie: *Haan.* My friend Arun Jaitley says this (Advani's praise of Jinnah) was for 'tactical reasons'. *Arey,* what was the tactic for? To confuse the Pakistanis so that you can vanquish them? What was tactical about it? . . . And he (Advaniji) said that what Jinnah said about secularism is the ideal for India, Pakistan and Bangladesh. How does that square with Hindutva? So (the explanation) 'Hindutva is secularism from birth and essence'. So, you have to start explaining that thing. That was the reason. 'Make Patel the issue; don't make Jinnah the issue'. Another reason (for expelling Jaswant Singh) was the publicly expressed conclusion of the head of the RSS that 'You people are not exercising authority. Put your house in order and do it swiftly. *Had se badh gaya hai'.* So, all these things combine, and Jaswant Singh becomes the occasion.

Shekhar Gupta: So the message to the RSS was, 'Since you asked for blood, I am giving you blood'.

Arun Shourie: No, not since *you* asked, but, independently, I am giving you blood. See, I have authority. 'Me Tarzan, Me Tarzan . . . therefore, Jane should be happy with me'.

Shekhar Gupta: Modi, is he the future?

Arun Shourie: I feel, as I said during the election period also . . . his work in development has really been very, very good. You go to Gujarat, see the difference . . . So, he certainly can be, but at the moment he is a bit apprehensive and many people in the BJP in Delhi would be happy to see him get ensnared in the Supreme Court, SIT etc.

Shekhar Gupta: What is he apprehensive about?

Arun Shourie: I think (he fears), are the people with him as much as they were, will the SIT ensnare him?.

Shekhar Gupta: But somebody did get away in Gujarat with what happened in 2002.

Arun Shourie: You see, what happens is that, as in Delhi, the administration looks the other way . . . We must remember, it is not just the senior leaders, we keep blaming Arun Nehru or P.V. Narasimha Rao as home minister or somebody (for the 1984 riots). We must remember, the police and all are a part of society.

And when society is enraged, the policeman is also (from) the same lot.

Shekhar Gupta: Unless you have the level of statesmanship where you can go and control it . . .

Arun Shourie: Then you have to be Sardar Patel. That when you just wave your finger, 'Stop it', the policeman stops.

Shekhar Gupta: But that he (Modi) did not prove to be?

Arun Shourie: Well, that is to be inquired into.

Shekhar Gupta: Jaswant Singh mentioned that you were also on the flight where Vajpayee was deliberating on this.

Arun Shourie: Actually, I have a much more extended knowledge of that . . . Atalji, you remember, went to those refugee camps (of Gujarat riot victims). There were very emotional scenes. Immediately after that there was a visit, scheduled earlier, to Singapore and Cambodia, and I was the minister accompanying him. It is in the aircraft itself, I think either Ranjan (Bhattacharya) or Brajesh Mishra, we were sitting in the front portion. Atalji was in his cabin. One of them told me, *'Ja kar baat karo, woh bahut udaas, akele baithe hain'*. So, I went. Atalji was sitting there and I sat next to him and he just kept his head down, and after a while I said, 'Sir, *aapko itna dukh kis baat ka hai?'* He said—I have never forgotten it—he said, *'Mujhe kyun yahan bheja ja raha hai? Main kis munh se utroonga? Is kalank ko mere munh par laga diya'*. Then I pleaded with him . . .

It is indescribable, his condition, because he is a very sensitive man. He has a poet's sensitivity. So I said, 'Sir, there is no problem, we are landing very soon and, when we go to the hotel, you ring up Advaniji and say this should happen before you come back'. He kept quiet. The conversation continued and we went into many things. That evening passed, then the next day, the whole day, we met this minister, that minister. We were there for one or two days, and then we went to Cambodia, we went to Angkor Wat. Every afternoon, the question would be, 'Will he ring up Advaniji this evening?' But as Jaswant Singh rightly says, it is not Atalji's nature to press beyond a point. Anyhow, he did not ring up. Then, when we came back here . . .

Shekhar Gupta: And that call would have been to do what?

Arun Shourie: That Modi should resign. Immediately after we came back, we had to go to the meeting of the National Executive in

Goa and I was told you must be on the flight. I said, 'No, that is not right. Only Advaniji and he (Vajpayee) should be there. They should thrash it out and finish it. Whatever they decide, whether Modi stays or goes'. And frankly, I must say, I was more affected by Atalji's pain than by what had happened in Gujarat. Maybe this is my inhumanity or something. I can't claim that I was that great a liberal. This person, who was saying that you have to be there, said 'You don't know, they will not talk. The two of them will just sit. Two hours will go by and they will not talk . . . So, Jaswant is going to be there also. The two of you would be there and this subject must be brought up and concluded'. We sat down (in Atalji's cabin) but nobody would talk. After a while, Atalji picked up a newspaper and opened it. Then Advaniji picked up a newspaper and opened it. So they are sitting like this (face-to-face) and each is holding a newspaper, shutting out the other. So I took the newspaper from Atalji. I said 'Sir, please you have to decide this issue'. The conversation first went to Jana Krishnamurthy, who was the BJP president at that time, a very nice person . . . It was decided that Venkaiah (Naidu) would be the president.

Then, second, *'Modi ka kya karna hai?'* This was discussed and it was decided, it was definitely decided that, when we get down, Advaniji will ring up Modi and tell him that in the meeting in the evening, (he should) offer to resign. The (evening) meeting starts, speeches start. Atalji, Advaniji and all are sitting on the stage. Modi got up and said, *'Mujhe kuch kehna hai'*, and he offered to resign. He said, *'Main nahin chahta ki* party should have any difficulties because of me'. And as if on cue, people from different parts of the hall started saying 'absolutely no . . . *koi galti nahin hui* . . . '. I was sitting at the back . . . and I saw Atalji's bewilderment—because he thought this was a done deal. This was like an orchestrated coup against him.

So, I got up and I said, 'Narendra Modi *ne abhi jo yeh kaha hai,* it is in pursuance of the decision which these senior leaders have taken in the flight . . . I was present'. There was consternation, but immediately again the chorus started and eventually somebody said, Atalji said or the president of the party said, '*Abhi to* public meeting *ka* time *ho gaya hai, kal* decide *karenge.' Logon ne kaha 'Nahin, nahin, nahin hoga'*. So there is absolutely no doubt, and I can give you much more detail on this, that Atalji was completely thwarted.

Shekhar Gupta: Thwarted? Everybody got together?

Arun Shourie: I am not sure that everybody got together simultaneously, but I must say that I was not all the time for this, that Modi has to go because of the killings, because in my view such things happen as a reaction, as happened in Delhi as a reaction to Mrs. (Indira) Gandhi's brutal killing. You can't then prevent those things. Nobody can prevent those things.

Shekhar Gupta: Or you need to be an extraordinary leader like Patel to prevent it.

Arun Shourie: Yes. But that is a very rare person.

Shekhar Gupta: But that is what leadership is all about, to do the right thing at the right time.

Arun Shourie: For that there is another point to leadership. That is moral authority. You can't run around behind every policeman and say, 'No, no you are not checking the riot'. So you must have moral authority . . . Unless you have that, you cannot control police persons or anybody in such situations.

Shekhar Gupta: I do know that this always rankled with Vajpayee, that he was thwarted.

Arun Shourie: Yes, no doubt about that.

Shekhar Gupta: And I think he finally accepted with resignation that maybe this was too central to the party's core, he was not able to defy it.

Arun Shourie: Well, either it is the party's core or it may be his understanding of society. In my view, it is not so much about party as this is about humans . . . After all, in Delhi it was not the (Bharatiya Janata) party, it was Congressmen. That is how societies react. If the State abdicates its authority, society will take its revenge.

Shekhar Gupta: Kandahar . . . there are two points of view of what happened.

Arun Shourie: There are two expressed points of view, there is only one truth. I think one reality was central. The plane was hijacked from Kathmandu. You get the information immediately. But our systems, as they are, the Crisis Management Group is not able to meet. It was an incredible good fortune that the plane landed in Amritsar.

Shekhar Gupta: And still nobody shot its tyres?

Arun Shourie: K.P.S. Gill has educated me that a constable could have finished the tyres. You don't even require firing. You put a

tractor in front and at the back and deal with the terrorists. He says the Punjab Police could have handled it. I can't understand why that order was not given. Then it (the plane) flies off. After that, the media is as responsible. I was all the time in this group of four-five persons who were meeting all the time. The media was only focusing on the relatives who were just (beating their chests) . . . Anyhow, that was a big factor on Atalji's mind. TV had just begun, everybody was (glued to) that. The second (factor) is that you have to have capability. If you want to be like Israel, you have to build up that capacity over 20–30 years, and that iron in your soul. We have not got that, whether it is to deal with the Lashkar-e-Toiba, whether to deal with the Taliban hijacking . . . In the end the question was whether you should negotiate with them, barter with them or not. Unrealistic people like me can always take a view that no, we should never deal with them. Probably, Advaniji was of the view also at the time that we should not deal with them, but in the end he went along like everybody else. I was a nobody there.

You can imagine—it is a dramatic situation for three days. Everybody is in touch with everybody. Even an outsider to the group like me is in touch with everybody. Certainly everybody was in touch with Advaniji also. I mean, it is impossible to conceive (that he would not know) . . . He is the Home Minister, he is the second-most powerful man in the Government . . . So, every step that was taken was within his knowledge. And I would think, I don't know about the minutes or how detailed they are, but many of these decisions would have been recorded in the Cabinet (minutes).

Shekhar Gupta: So you would rather go by Jaswant Singh's explanation of what happened, his recollection that Advani was present in the Cabinet Committee on Security when the decision to send him to Kandahar was taken.

Arun Shourie: There were actually two decisions. The first was the exchange and to release the prisoners. On that also Jaswant Singh has pointed to a good circumstantial factor that such important terrorists in an Indian jail cannot be released without the concurrence of the (Union) Home Minister. And then Farooq Abdullah has testified that he (Abdullah) himself argued with Advaniji, don't do it. That means Advaniji knew the prisoner exchange is going to take place . . . Whether Jaswant Singh (would go) or not on that . . . I can't imagine

that such a big decision would be taken without that small group knowing. And there is a very interesting point that Yashwant Sinha told me . . . You see, the CCS (the Cabinet Committee on Security) is meeting. Jaswant Singh gets up and says, 'Sorry, I have to catch a flight and go with them'. Advaniji was present. Yashwant Sinha says 'I personally remember that', but maybe Advaniji has forgotten. These things are such, they move so rapidly . . .

Shekhar Gupta: Yashwant Sinha was the one who raised the first questions along with Jaswant Singh after the Parliament election. He was immediately made to pay for it.

Arun Shourie: I felt at that time it (his resigning from all posts in the party) was wrong . . . because I felt that he must keep every forum in hand. He said, 'No, I don't want them to have this sword over me that they can remove me from anything, so I am giving up all posts.'

Shekhar Gupta: But you still feel sort of bold enough to raise the questions that you are raising now.

Arun Shourie: Yes, of course. What is happening now is that raising these questions has become indiscipline. Rather than (what has been done by) those who have brought the party to this pass . . . they are the fellows hurting the party's interests. Who has been planting stories for five years against each one of these characters, including Advaniji, and especially Rajnath Singh? Who? In the press through six journalists. That is discipline? But you want to call this (asking a question about that) indiscipline. Okay, call it. But we feel it is an important institution, the party is an important institution and . . . See, I keep raising the issue with you, you are my boss . . . You don't do anything. In the end I write you a letter. Till today, you (even in *The Express*) don't know the letter that I wrote. No paper has published the letter I wrote. That is true.

Therefore, I acted in a disciplined way . . . I wrote that I am not sending a copy of this (letter) to anybody. But you say "This (writing the letter) is indiscipline, indiscipline". So you want to be Humpty Dumpty and make words mean what you say, and (with that as your basis) act. Then, I must presume that you already have it in your mind to act against me or anybody. So, okay, act.

Shekhar Gupta: So from Tarzan to Humpty Dumpty to Alice in Wonderland . . .

Arun Shourie: To, and that is your phrase, Alice in Blunderland.

Shekhar Gupta: I hope your voice is heard because nobody wants a one-horse race in politics.

Arun Shourie: But I feel that if there are two voices, the other voice must be responsible. It must be thoughtful. It cannot be anti-intellect, it cannot be sound-byte journalism. It must study those issues.

14.

A few extracts from the book

Now, it so happens that I profoundly disagree with Jaswant Singh's assessment of Jinnah.[1] Ever since I read the multi-volume *Jinnah Papers* brought out by the National Archives of Pakistan; the two-volume, *Foundations of Pakistan,* edited by Syed Sharifuddin Pirzada; and the four-volume *History of Partition of India,* edited by the Pakistani historian, K.K. Aziz, Jinnah has seemed to me to be a pinched, narrow-minded, diabolic schemer, one who used and was used by the British to divide India. To use his words, he "forged a pistol," the armed thugs shoring up the Muslim League. He unleashed them in his "Direct Action" against Hindus. He paralysed the Interim Government through Liaquat Ali. From 1935 onwards, he worked stealthily and continuously with the British to thwart every scheme that might have preserved a united India. His contemptuous characterizations of India, of Hindus, of our national movement and its leaders make one's blood boil to this day. That he talked Islam and drank whiskey, ate ham, and the rest, that he hardly knew the Quran to say nothing of living by it, do not prove his secularism to me; they make him out to be a hypocrite. In a word, far from being "attracted" by Jinnah, as my senior, Jaswant Singh is, I am repelled by him.

The Indian Express, August 2009.

[1]Jaswant Singh wrote a book on Mohammed Ali Jinnah. It is 669 pages in length. Within an hour of its release, the BJP issued a strongly worded statement distancing itself from the book. The next day, the principal leaders, including Jaswant Singh, traveled to Shimla for a *chintan baithak*. Jaswant Singh was asked not to come down from his hotel room. The others had but to gather and, on cue, two of them demanded that Jaswant be expelled from the BJP. The others kept silent. Jaswant was rung up and told that he had been expelled from the Party he had served for thirty years. A person who had been a member of the Party for thirty years; who had been one of its principal leaders for two decades; who had been Minister for External Affairs, for Defence, and for Finance was expelled for writing a book that not one person present had read. A landslide began.

And book after book that I have read regarding those decades since I wrote about him and his stratagems twenty-five years ago has etched that image even deeper. My perspective differs for another reason also from the one that informs Jaswant Singh's book, and that, if I may add, of those who still dream of a "grand confederation of India, Pakistan, Bangladesh", of those who still talk of *Akhand Bharat*. Having waded through the writings of Islamic leaders and clerics of the period, and seeing the direction in which Pakistan and Bangladesh have evolved—have *inevitably* evolved, given the principles on which they were founded, principles that Jinnah articulated and insisted upon incessantly—I have come to realize that Girilal Jain was the one who was right. You are dead wrong, he told me, after reading what I had written about Jinnah. The best thing that has happened for us is the Partition. It has given us breathing time, a little time to resurrect and save our pluralist culture and religions. Had it not happened, we would have been bullied and thrashed and swamped by Islamic fundamentalists. So, my lament is the opposite of Jaswant Singh's today. And it also so happens that I am an adorer of Sardar Patel as of the Lokmanya, and a worshipper of Gandhiji.

But first the book, and a few extracts.

A glimpse of the contents

A chapter, "Compromise on national symbols", not by the British nor by Jinnah, but by the Congress leaders. By "Congress leaders" does the author mean, "Sardar Patel", or even "Congress leaders, in particular Sardar Patel"?

A chapter, "Boost to Jinnah by Congress".

A sub-heading: "Azad shocks Gandhi". When Maulana Azad, then Congress President, conveyed acceptance of the Cabinet Mission Plan, in particular of excluding non-League Muslims from the Cabinet, and his assurance to the British that he would carry the Congress with him, that they need not worry about any misgivings that some, including Gandhiji might have—all this without telling either the Congress or Gandhiji, and he "mis-stated" the facts, to boot, to Gandhiji's face, till he was confronted with the letter he had sent. The author sets out the "devastating effect" of the episode on Gandhiji.

Citations from Sardar Patel

He recalls how the Congress Working Committee, in spite of the strenuous, indeed broken-hearted opposition of Gandhiji, accepted the British proposal to divide Punjab and Bengal. He quotes the letter that Sardar Patel wrote to a member of the Working Committee, and points out how very unrealistic the Sardar was in this case: "If the League insists on Pakistan," the Sardar wrote, "the only alternative is the division of the Punjab and Bengal . . . I do not think that the British Government will agree to division. In the end, they will see the wisdom of handing over the reins of Government to the strongest party. Even if they do not, it will not matter. A strong Centre with the whole of India—except East Bengal and part of the Punjab, Sind and Baluchistan—enjoying full autonomy under the Centre will be so powerful that the remaining portions will eventually come in." The author remarks, "Both Nehru and Patel surmised that by this counter-strategy Jinnah would be paid in his own coin; he would be made to realise that his argument would be turned against him; that what would be left to him ultimately was the 'truncated, mutilated, moth-eaten Pakistan' which he had scornfully refused to look at some years ago."

Recounting subsequent events, the book records,

> Patel was so fed up with the League's tactics inside the Interim Government that he saw nothing but endless intrigue and troubles ahead in any kind of working with the League; it was better to have a clean separation rather than have pinpricks every day. Nehru too had lost all hopes of joint action with the Muslim League in any kind of arrangement; the League would never see eye to eye with the Congress on any of the issues. He felt, despairingly, that there was no way out except Partition. Rajendra Prasad came out with the same explanation: 'It was the Working Committee, and particularly such of its members as were represented on the Central Cabinet, which had agreed to the scheme of Partition . . . (They) did so because they had become disgusted with the situation then obtaining in the country. They saw that riots had become a thing of everyday occurrence and would continue to be so; and that the Government . . . was incapable of preventing them because the Muslim League Ministers would cause obstruction everywhere . . . It had thus become impossible to carry on the administration.'

"With Nehru and Patel finally acquiescing to the demand for Pakistan, the atmosphere, especially in the north, began to hot up as never before . . ." the book records, and elaborates what followed.

"Benumbed mental state of Congress"

The book turns to what it calls the "Benumbed Mental State of Congress", and cites Acharya Kripalani's admission to nail it. Kripalani, then the President of the Congress, wrote about the crucial meeting in which, unknown to Gandhiji, the Working Committee gathered, and endorsed the Partition Plan: "The Working Committee met in a tense atmosphere. Everybody felt depressed at the prospect of the Partition of the country. The Viceroy's proposals were accepted without much discussion. As a matter of fact, Jawaharlal and Vallabhbhai were already committed to the acceptance of the proposals. There was no critical examination . . ." Kripalani noted the manifest infirmities in the Plan that had been drawn up, and which the CWC approved, and wrote, "It was quite natural for our foreign masters to ignore all these inconsistencies in order to favour the League; one cannot understand why we of the Working Committee did not even draw their attention to these important details."

The Plan had been accepted behind Gandhiji's back. He was dead set against it even after Panditji and Patel told him that they had already agreed to it in their meeting with the Viceroy, and had already got the Working Committee to endorse it. Gandhiji was torn—telling his closest associates one moment that he would put up a last fight, telling them the next that he was helpless. At the crucial moment, he told Congressmen that, as their leaders had already accepted the Partition Plan, they should do so also. The book quotes Panditji sort of placing the responsibility on this falling in line by Gandhiji! Panditji told Leonard Mosley, "But, if Gandhiji had told us not to accept Partition, we would have gone on fighting and waiting."

The book records that, given the extent to which it had been weakened by the Second War, the British had come to realize that their time was up, that there was no way they could impose their conditions on the Indians. So, they set about their fallback option, to divide India so that they would have a strategic foothold in Pakistan. Having documented the mirages and miasmas of the Congress leaders, the book remarks, "the Pakistan demand assumed prestige mainly because of the Congress vacillation on that issue and pampering of the League . . ."

The book shows how the rationalization the Congress leaders advanced—that the only alternative to Partition was civil war—is blown by the massacres that followed: after all, the Partition did not avert the bloodshed. It recalls Panditji telling a New York audience two years later, that if they had known the terrible consequences of Partition in the shape of killings etc., they would have resisted the division of India. It recalls, Rajendra Prasad exclaiming, "If only we had known!" "As for Acharya Kripalani," the book records, "his choicest epithets in later years were reserved for those in the Congress High Command on whom he put the entire responsibility for Partition—so far had his own mind traveled from the position he had taken (of defending the June 3rd Plan) in that fateful session of the AICC meeting in June 1947."

The book records Pyarelal's telling assessment:

> Pandit Nehru's speech revealed—what had all along been suspected—that it was the Interim Government's helplessness, owing to sabotage from within by the League members in the Government and retention of control by the British, to cope with the spreading anarchy that had driven the Congress High Command to desperation, so that they were glad to escape from the intolerable situation they found themselves in, even by paying the price of Partition. The Congress leaders were past the prime of their lives. After a quarter of a century of wandering in the wilderness they had come within sight of the Promised Land. They were doughty warriors and were not afraid, if necessary, to take the plunge once more. But they were afraid that it might not be given them to see another successful fight through, and the fruit of their struggle and the countless sacrifices of a whole generation of fighters for freedom might slip through their fingers when it seemed almost within their grasp. If the hour of decision had come earlier when the Congress was in the wilderness, when they were young and before their experience in the Interim Government and the exercise of power had coloured their thinking and outlook, their choice might have been different.

But that was not just Pyarelal's assessment. Panditji's own assessment was harsher. The book records what he told Leonard Mosley in 1960: "The truth is that we were tired men, and we were getting on in years too. Few of us could stand the prospect of going to prison again, and if we had stood out for a United India as we wished it, prison obviously awaited us. We saw the fires burning in the Punjab and heard every day of the killings. The plan for Partition offered a way out, and we took it."

A few questions

I can go on reproducing extracts, but the main theme of the book's thesis will be evident. According to the book, while the British had the manifest design to partition India, while Jinnah and his Muslim League subordinates were manifestly working for Pakistan, neither of the two would have succeeded but for the vacillations, mistakes and compromises of the Congress leaders.

To assess the anger that the Gujarat Government has worked up, ask three questions:

- *Is it just this book alone that asserts that mistakes by Congress leaders contributed to the outcome? Was that fact not acknowledged by the Congress leaders themselves?*
- *When the book speaks of the vacillations, mistakes and compromises of the Congress leaders does it mean, "the vacillations, mistakes and compromises of the Congress leaders—* excluding *Sardar Patel"?*

Manifestly not. So, is the author guilty of insulting Sardar Patel or not? Should the Gujarat Government not, therefore, ban the book? And so, the final question:

- *Whose book are we talking about?*

The book is *The Tragedy of Partition* by one of the longest-serving and most revered pillars of the RSS, H.V. Seshadri. It is the standard text of the RSS on the Partition. It is sold at every RSS bookshop, including those all over Gujarat, and is read, its message is internalized, by every RSS *swayam sevak.*

Now that the Gujarat Government knows the name of the author, two further questions:

- *Is there one passage in Jaswant Singh's book, even* one *passage that casts the Sardar's role into graver doubt than Seshadri's book?*
- *Is the Sardar's reputation, in the view of those prancing about to shield it, so fragile that such references as there are in Jaswant Singh's book or Seshadri's will undermine it?*

Nor is Seshadri's book alone in documenting the lapses of the Congress leaders. Professor R.C. Majumdar nailed the lapses

extensively in lectures that the Bharatiya Vidya Bhavan published. He nailed them in his three-volume study, *History of the Freedom Movement in India*. The lapses are nailed even more firmly in the *Struggle for Freedom,* which forms Volume XI of the great series, *The History and Culture of the People of India,* "prepared under the direction of", as the cover of each volume says, that other distinguished son of Gujarat, K.M. Munshi, one of the closest associates of the Sardar himself. And they are nailed—not as lapses, but as inexcusable blunders—in the work on the Partition of India of the greatest Constitutional scholar we have had since Independence, H.M. Seervai. The self-serving speeches of the Congress leaders are available in Mitra's *Annual Register*. The anguish of Gandhiji, his torment at what the Congress leaders, in particular the two closest to him, Panditji and the Sardar, had done is recorded from day to day in his addresses at the daily prayer meetings and in Pyarelal's searing volumes, *The Last Phase:* "The purity of my striving will be put to the test only now," Pyarelal records him saying as he lay in bed, having awakened earlier than he was meant to. "Today I find myself all alone. Even the Sardar and Jawaharlal think that my reading of the situation is wrong and peace is sure to return if Partition is agreed upon . . . They wonder if I have not deteriorated with age . . . Nevertheless, I must speak as I feel if I am a true and loyal friend to the Congress and to the British people as I claim to be . . ."

As all these books, as well as many more, can be stretched to cast the same doubts on the role of the Sardar, as one of the principal leaders of the Congress, how many of them will the Gujarat Government ban?

15.

The ban and the law

"Jaswant Singh's book questions the role of Sardar Patel during the Partition of India as well as his patriotic spirit," the Government of Gujarat declared in a statement. "This is an attempt to tarnish the image of Patel who is considered the architect of modern united India. It is a bid to defame Patel by distorting historical facts."

Assume that the book does question some assessments of the Sardar. Does that amount to questioning his patriotism? Which ass would do so? Assume that the book says that Rajaji's assessment at a particular turn, say over the Cripps Mission proposals, is borne out better by subsequent events than that of the Sardar and Panditji. Does this amount to an attempt at tarnishing the image of either? Assume, without the slightest warrant, that the book defames a historical figure, the Sardar. Is the remedy another book, even a case for defamation—if such a case lies—or decreeing a ban on the book?

"The book denigrates the Sardar," said a spokesman of the Gujarat Government on the first day, giving the reason for banning Jaswant Singh's book, "and that is not acceptable to the state."

No one could point to a single, not one single reference in the book that could be taken to denigrate Sardar Patel. Someone must also have realized that not being "acceptable" to a state is not a ground on which a book can be banned under our Constitution and laws.

Nonetheless the ban was notified even as the senior-most officials of the state Government were testifying that they did not know the reasons for the ban. *The Indian Express* of 23 August 2009 reported a senior official of the state's Home Department as saying, "The Legal Department must have gone through the book. I have not read it." "When contacted, state Law Secretary M.H. Shah also expressed

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The Indian Express, August 2009.

ignorance about the reason for the ban," the paper reported. But a ban nonetheless—*The moving finger having writ . . .*

But, lo and behold! In the notification banning the book, there is no reference to the Sardar at all! The notification declares, "the contents of the book are highly objectionable and against the national interest . . . the contents of the book are misleading to the public and are against the tranquility of the public and against the interests of the state"—hence the book is to be forfeited and its publication, display, sale and distribution "and any kind of its use" are prohibited.

The 669-page book was released in Delhi late in the evening on 17 August. The ban was announced on the 18th by sojourners in Shimla. The notification signed by an Undersecretary in Gandhinagar is dated 19 August. Talk of speed-reading!

The grounds as stated

Apart from the fact that the ban was manifestly announced before the book was read, the question that arises is: Does a government in India have the right to ban a book because it finds its contents

- "highly objectionable"—obviously in the present case in regard to facts, for no one is alleging that the contents are pornographic;
- "against the national interest";
- "misleading to the public";
- "against the tranquility of the public"; and
- "against the interests of the state."

And can a government ban a book on these grounds without giving any particulars at all?

Most of the grounds that have been listed are so ridiculous that even a moment's consideration will show them up. The Government of Gujarat thinks that the contents are "misleading to the public"? Were that to be a valid ground, the Government of Gujarat would have had license to ban almost all newspapers since the post-Godhra riots as it has been deeply convinced that their contents have been grossly "misleading to the public".

"Against the interests of the state"? Consider a report that calls into question the claims on which a state government has attracted foreign investors. Were it to be circulated, investors would pack up and leave. The report, howsoever well researched, would be

The Court went to great pains to examine the passages in Godse's book which the Administration had asserted were objectionable. In instance after instance, we find the Court examining the veracity of the passage and concluding that other accounts, for instance those of Pyarelal, of Maulana Azad etc., showed that the author had sufficient grounds for saying what he had said; and this was one of the main reasons on account of which it struck down the order of forfeiture. These passages include Godse's assertion to the effect that Pakistan had been given cash balances at Mahatma Gandhi's instance, that men and women had been moved by Nathuram Godse's deed, that they had offered great and spontaneous support to him and his relatives after the assassination, that Sardar Patel had opposed Gandhiji on the payment of cash balances and so on.

Again and again, the Court points out that the book must be read as a whole and that its purpose must always be kept in mind. Again and again, it holds that the book in question deals with the policies which led to the Partition of India and that it does not deal with any current communal issue. It holds that to ascertain the purpose for which the book is written, apart from the contents of the book itself, things that are said in the preface etc. should be examined.

In fact, the Court holds that even if in a particular case the facts turn out to be at variance with the assertions in the book, one cannot deduce automatically that the intention of the author is to create enmity and hatred, the offences which fall under Sections 153A and B. As the Court puts it:

> Pyarelal's book bears out the petitioner in a large measure and in any event no charge can be made against him that, in regard to the events surrounding the fact, history has been distorted by him. It is also necessary to remember that if the claim of an author that he is an historian is not fully borne out, one cannot infer from that alone that the author had an oblique intention in straying from the strict path of history. Much less can one infer that such an oblique intention was of the nature mentioned in Section 153A of the Indian Penal Code.

It repeatedly dismisses the pleas of the prosecution regarding several passages by affirming that sentences and passages cannot be torn out of context to make a fanciful charge stick. As the Court puts it: "A passage here or a passage there, a sentence here or a sentence there, a word similarly, may, if strained and torn out of context,

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supply inflammatory matter to a willing mind. But such a process is impermissible. We must read the book as a whole, we must not ignore the context of a passage and we must try and see what, reasonably, would be the reaction of the common reader . . ."

It places emphasis on that last point: namely, the passages must be assessed in the light of what a common reader can reasonably be expected to do upon reading the passages. Obtuse and strange constructions are not to be the guide in these matters. Furthermore, it holds that in judging the likely consequences of the book, we must go by the depth of contents, the language, and the class of readers who are liable to read it: while noting that Godse's language is powerful, that he has written the book with a definite purpose, the Court holds that the language is so Sanskritized that the ordinary reader will not be able to find the incendiary material in it which the Government is claiming marks the whole book.

But even if stray incendiary material be found upon searching for it, says the Court, that is no ground for forfeiting the book under Section 153A: "There is no doubt that Gandhiji's murder has been extolled and one cannot possibly appreciate it. But the question before us is not whether the book is bad for that reason. Our task is to see whether the glorification of Nathuram or the justification of his dastardly act can be said to be reasonably connected with the problem of Hindu–Muslim amity . . ."

Even in such an extreme case, the order banning the book was struck down. Indeed, as I noted, the Government was directed to pay the author the cost of litigation. And the point transcends the specific book at issue in such cases: whether the ban was re-imposed and upheld later in regard to a specific publication, the criteria that were set out in the Godse case are the ones that have been reaffirmed subsequently in judgment after judgment.

Alternative history

Another well-known case, *M/s Varsha Publication Pvt. Ltd. v. State of Maharashtra,* provides an even more exact parallel.[1] What the Court said in this case has a direct bearing on a book such as that of Jaswant

[1] *M/s Varsha Publication Pvt. Ltd. v. State of Maharashtra,* (1983) *Criminal Law Journal,* 1146.

Singh, a book that advances a thesis that is at variance with much of what we have been brought up to believe. The Court held,

> We have already observed that the very purpose of writing the article is a sort of historical research and it is based on a number of reference books and other material. It is true that sometimes in a given case even a truthful account may come within the mischief of S. 153A. But this will be too broad a proposition. Different considerations will prevail when we are to consider a scholarly article on history and religion based upon research with the help of a number of reference books. It will be very difficult for the State to contend that a narration of history would promote violence, enmity or hatred. *If such a convention is accepted, a day will come when that part of history which is unpalatable to a particular religion will have to be kept in cold storage on the pretext that the publication of such history would constitute an offence punishable under S. 153A of the IPC.* We do not think that the scope of S. 153A can be enlarged to such an extent with a view to thwart history. For obvious reasons, history and historical events cannot be allowed to be looked upon as a secret on a specious plea that if the history is made known to a person who is interested to know the history, there is likelihood of someone else being hurt. *Similarly, an article containing a historical research cannot be allowed to be thwarted on such a plea that the publication of such a material would be hit by S. 153A. Otherwise, the position will be very precarious. A nation will have to forget its own history and in due course the nation will have no history at all.*

Transpose these observations to Jaswant Singh's book, the endnotes of which alone, listing sources and explanations for each observation and event, traverse *sixty-seven pages*. The Court continued,

> This result cannot be said to have been intended by the Legislature when S. 153A of the IPC and S. 95 of the Cr. P.C. were enacted [exactly the two sections invoked in the Gujarat Government's notification!]. *If anybody intends to extinguish the history (by prohibiting its publication) of the nation on the pretext of taking action under the above Section his act will have to be treated as a* mala fide *one.*

Is the order specific?

We saw that the Gujarat Government order just makes some general assertions like "against the interests of the state," "against national interest." It gives no specific evidence *at all*. In a long line of cases, the Supreme Court has held this to be impermissible.

The Supreme Court has emphasized the difference between three concepts: "opinion", "grounds", and "matter". Obviously, when

a government acts to ban a book, it would be doing so, at the least it would claim to be doing so, on the basis of an "opinion" that it has formed, namely, that the book has material that will inflame sections of people. But the fact that the government has come to form such an opinion is not enough, the Court has repeatedly held. The government must state the "grounds" because of which it has come to this opinion. And stating the "grounds" does not mean just reproducing words and phrases from the statute as the Gujarat Government has manifestly done. The government must specify them: for instance, when it asserts that some communities will be inflamed by a publication, it must set out *which* communities. Even that is not enough. Section 95 of the Criminal Procedure Code under which the Gujarat Government has acted states,

"(1) Where —

(a) any newspaper, or book, or

(b) any document,

wherever printed, appears to the state government to contain any *matter* the publication of which is punishable under . . ."

The Section, the Supreme Court has held again and again, therefore requires that the Government specify the "matter" in the publication—the passages, illustrations, etc.—which is liable to trigger violence, and so on. The reason for the Supreme Court ensuring that each of these ingredients is present before banning a publication can be held to be valid is as straightforward as it is foundational: freedom of expression is absolutely necessary for democracy and our form of governance; suppressing it is, therefore, a matter of the gravest significance; all ingredients must, therefore, be met by the State before we put our seal on the suppression.

Two books were published in Hindi about Sikhism: *Sikh Mat Khandan,* Part I, and *Bhoomika Niazam Sikh Mat Khandan.* The Government of Uttar Pradesh ordered their forfeiture on the ground that the books fell afoul of Sections 153A and 153 B, that they were liable to wound the feelings of communities, etc. The U.P. High Court upheld the forfeiture order. The matter came before a Constitution Bench of the Supreme Court. In a landmark judgment, *Harnam Das v. State of Uttar Pradesh,*[1] the Supreme Court

[1] *Harnam Das v. State of Uttar Pradesh,* (1962) 2 SCR 487.

overturned the High Court judgment and struck down the Government's order. The Court pointed out that the Government had not, as it was obligated to do, set out the grounds on which it had arrived at its opinion. It said,

> So it is not known which communities were alienated from each other or whose religious beliefs had been wounded according to the Government, nor why the Government thought that such alienation or offence to religion had been caused.

There is a reason, the Supreme Court held, why the statute requires every government forfeiting a publication to set out the grounds. The relevant sections place the responsibility on the High Court to set aside the order of forfeiture "if it was not satisfied of the propriety of those grounds". If no grounds are set out, what can the High Court assess, and how will it discharge its duty? In this case, of course, even though the grounds had not been specified, the High Court had upheld the Government's order—and so, the High Court judgment too was overturned. Nor could a High Court take on the work of the Executive, read the publication itself, and locate the grounds on which it may offend susceptibilities of communities, etc. "It is not its duty to do more and to find for itself whether the book contained any such matter whatsoever", the Supreme Court held.

The point got fortified and was elaborated in *Narayan Das v. State of Madhya Pradesh*.[1] A Geography book for Secondary students contained maps. The Government concluded that the boundaries of India were wrongly shown, and that, therefore, the book called into question the territorial integrity of India. Accordingly, it directed that the book be forfeited. The High Court upheld the forfeiture order. The Supreme Court reversed the judgment of the High Court, and struck down the order of the state Government.

The Supreme Court held that the order was vitiated as the state Government had failed to state the grounds for its opinion. A mere reference to the words of the statute would not fulfill the statutory requirement of setting out those grounds, the Court pointed out. In words that directly apply to the Gujarat Government notification forfeiting Jaswant Singh's book, the Court held:

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[1] *Narayan Das v. State of Madhya Pradesh*, MANU/SC/0187/1972.

> According to the Oxford Dictionary the meaning of the word 'ground' in this connection must be 'base, foundation, motive valid reason.' What the State Government did in this case in the opening paragraph of the order was merely to quote a portion of words of Section 2 namely that the books 'questioned the territorial integrity and frontiers of India in a manner which is likely to be prejudicial to the interest of the safety or security of India. *The order gives no indication of the facts or the statements or the representations contained in the book which according to the State Government offend Section 2. In the order itself there is no reference to any map or any text in the book which would come within the mischief of the said section.*

"Opinion" that the state government may form is one thing, the Supreme Court emphasized. The "grounds" on which it has come to form that opinion are separate and different:

> In all such cases . . . the State Government has to give the ground of its opinion. Clearly the grounds must be distinguished from the opinion. Grounds of the opinion must mean the conclusion of facts on which the opinion is based. There can be no conclusion of fact which has no reference to or is not *ex facie* based on any fact.

The Supreme Court recalled, with approval, the judgment of Chief Justice Jenkins, in *In re, Mahomed Ali*,[1] where the Chief Justice had held that "repetition of an opinion cannot be its grounds", that "nothing in the nature of a fact is set forth" and that a mere reference to the words of the Section is clearly inadequate. In a concurring opinion, Justice Stephen, had emphasized that "the ground of an opinion must in this case, if not always, be a fact or facts." The Supreme Court then cited another judgment, this one of the Calcutta High Court in *Arun Ranjan Ghose v. State of West Bengal*,[2] and recalled what had been held in it:

> It is useful to consider here what is meant by grounds of opinion. The formation of an opinion by Government is undoubtedly the ground for the action taken by them, but the grounds for the opinion are obviously different. The opinion, after it has been formed, furnishes a ground to Government for taking action contemplated, but the grounds on which the opinion itself is formed are and must be other grounds. Those grounds must necessarily be the import or the effect or the tendency of matters contained in

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[1]ILR 41 Cal 466.

[2](1955) 59 Cal WN 495

> the offending publication, either as a whole or in portions of it, as illustrated by passages which Government may choose.

But aren't the grounds self-evident? Are they not implied—for instance, in the phrases that the Gujarat Government has used in the notification banning Jaswant Singh's book: "against the interests of the state", "against the national interest", "public tranquility" and the rest? The complete answer to this has been given by the Supreme Court in another well-known case, *State of Uttar Pradesh v. Lalai Singh Yadav.*[1] "A drastic restriction on the right of a citizen when imposed by a statute," the Court observed, "calls for a strict construction, especially when quasi-penal consequences also ensue." In particular, the Court held,

> When the section says that you must state the ground it is no answer to say that they need not be stated because they are implied. You do not state a thing when you are expressively silent about it. To state 'is to declare or to set forth, especially in a precise, formal or authoritative manner, to say (something), especially in an emphatic way; to assert' (*Random House Dictionary*). The conclusion is inescapable that a formal authoritative setting forth of the grounds is statutorily mandatory, if you laze and omit, the law visits the order with voidness and this the state Government must realize especially because forfeiture of a book for a penal offence is a serious matter, not a routine act to be executed with unconcern or indifference. The wages of neglect is invalidity, going by the text of the Code.

If the grounds are not set out, the Court pointed out, how can the High Court exercise the power that is given to it by those very Sections, namely, the power and duty to review the adequacy of the grounds? The "order may be brief," the Supreme Court said, "but it can't be blank"—which is precisely what the Gujarat Government's order is.

The Supreme Court's judgment in *Gajanan Visheshwar Birjur v. Union of India* deals with an instance that our activists will find particularly interesting, even as it nails the Gujarat notification.[2] A distributor of Marxist literature imported some books of Mao. The Customs confiscated them, and banned their distribution, etc. The Supreme Court came down heavily on the Customs and its notification. It observed,

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[1] (1976) 4SCC 213.

[2] *Gajanan Visheshwar Birjur v. Union of India*, (1994) *5 Supreme Court Cases*, 550.

> It would be seen immediately that the confiscation orders are totally bald and devoid of any findings in terms of Notification No. 77. The order does not say which of the books fall within the mischief of which clause of the notification. It is not as if the notification proscribes these books by name, i.e., by title. *It only says that import of books containing matter of the nature mentioned therein is prohibited. The books imported are writings, speeches and works of Mao, besides the works of Marx, Engels and Lenin. If they were proposed to be confiscated, it was obligatory upon the authority to say which book contained words of the nature mentioned in the notification.*

How does the Gujarat Government's notification banning Jaswant Singh's book stand against this requirement?

In Jaswant Singh's case the notification banning the book has come without any inquiry, to say nothing of even the semblance of a show cause notice. In the case we are considering, show cause notices *had* been issued. The Court came down on it for the same reason, that it had nothing specific in it. The Supreme Court held,

> *The show-cause notices themselves are bald and drawn up in a casual manner. It must be remembered that the order of confiscation affects not only the fundamental right of the petitioner to carry on his occupation and business but also his fundamental right of freedom of speech and expression (including his freedom to propagate the thoughts and ideas which he thinks are in the best interest of this nation). In such a case, it was required of the officer to point out which book contains words, signs or visible representations which are likely to incite or encourage any person to resort to violence or sabotage for the purpose of overthrowing or undermining the Government established by law in India or in any State thereof or its authority in any area or that they attract any of the other clauses in Notification No. 77. Absence of such specification both in the show-cause notices and the final orders must be held to vitiate the action taken.*

And when, far from the show cause notice not recording any particulars, the notice itself has not been issued at all?

Nor was that all. What the Supreme Court went on to say has an even more direct bearing on what the Gujarat Government has done. It held,

> *Before parting with this case, we must express our unhappiness with attempts at thought control in a democratic society like ours. Human*

> *history is witness to the fact that all evolution and all progress is because of power of thought and that every attempt at thought control is doomed to failure. An idea can never be killed. Suppression can never be a successful permanent policy. Any surface serenity it creates is a false one. It will erupt one day. Our Constitution permits a free trade, if we can use the expression, in ideas and ideologies. It guarantees freedom of thought and expression—the only limitation being a law in terms of clause (2) of Article 19 of the Constitution. Thought control is alien to our constitutional scheme . . .*

The contrast is evident in two cases concerning the memory of Gandhiji himself. In the *Godse* case that we have traversed earlier, the Delhi Administration, while forfeiting the book, had listed and annexed fifty-two passages which, in its view, fell afoul of Section 153A. These passages then formed the basis for examination by the High Court. By contrast, when the Maharashtra Government proscribed the play, *Mee Nathuram Godse Boltoy,* it listed no specifics—neither the passages that it felt denigrated Gandhiji, nor the communities that would be offended by them. The Bombay High Court struck down the ban.[1] After citing the series of rulings of the Supreme Court requiring specifics, the High Court observed,

> The Judgment of the Supreme Court thus is an authority for the proposition of law that the grounds of the opinion of the Government have to be set out in the notification of the Government itself. The requirement of setting out grounds is not met by merely adverting to the provisions of the statute, or by using the language of the statute. Referring to the terms of the notification in the case before it, the Supreme Court observed that the Notification provided no guidance on which communities were alienated from each other as a result of the publication of the books or whose religious beliefs had been wounded, according to the Government. The Notification did not provide why the Government thought that such alienation or offence to religion had been caused. The observations of the Supreme Court are clearly apposite to the facts of the present case because the notification which forms the subject matter of the challenge in the present case merely sets out that the script of the play and its Gujarati translation contain derogatory references towards Mahatma Gandhi and certain communities. Which communities those are, has not been specified. Nor for that matter, has the Government set out the reasons on the basis of which it states that those references are likely to disturb

[1] *Anand Chintamani Dighe v. State of Maharashtra,* (2002) *Criminal Law Journal,* 8.

> the public tranquility or to promote disharmony or feelings of enmity, hatred or ill-will among different groups or communities.

Need we cite more?

Public order

"But what about the apprehension of the government that disorders may break out because some people are offended by the book, whatever the intentions of the author might have been?" This is what the Gujarat Government has tried to insinuate with its assertion that the book is "against the tranquility of the public".

The complete answer to this has been given in several judgments by High Courts and the Supreme Court. To begin with, the Supreme Court has held time and again that the test has to be not the mere inference that a publication is liable to cause ill will, hatred or enmity in some persons. The test has to be that the ill will, hatred and enmity that the publication is liable to cause will be of such a magnitude as to threaten public order. Furthermore, the courts have repeatedly held that public order cannot be deemed to be jeopardized merely because matter in a publication etc. is liable to cause some breach of peace, or because a law and order problem is liable to arise. As the Supreme Court put it in the well-known case *Ram Manohar v. State of Bihar,*[1] and has reaffirmed in scores and scores of other judgments, the public order which is sought to be safeguarded entails "the prevention of disorder of a grave nature". The expression does not cover disorders of lesser gravity and ones which are of local significance alone. The Court said:

> . . .disorder is no doubt prevented by the maintenance of law and order also but disorder is a broad spectrum which includes at one end small disturbances and at the other the most serious and cataclysmic happenings. Does the expression 'public order' take in every kind of disorders or only some of them? The answer to this serves to distinguish 'public order' from 'law and order' because the latter undoubtedly takes in all of them. Public order if disturbed, must lead to public disorder. When two drunkards quarrel and fight there is disorder but not public disorder. They can be dealt with under the powers to maintain law and order but cannot be detained on the ground that they were disturbing public order. Suppose that the two fighters were of rival

[1]AIR 1966, SC, 740 (V 53 C 140)

> communities and one of them tried to raise communal passions. The problem is still one of law and order but it raises the apprehension of public disorder. Other examples can be imagined. The contravention of law always affects order but before it can be said to affect public order, *it must affect the community or the public at large* . . .

The Court has reaffirmed this distinction often maintaining that

> It has been held in a series of decisions of this court that the concept of law and order is not identical with the concept of public order. Public order is an *aggravated form of disturbance of public peace. It affects the general current of public life* . . .[1]

Third, the Supreme Court has held that the test has to be the likely reaction of the ordinary reader, not some hyper-sensitive person, to say nothing of persons who are out looking for issues on which to create mayhem. A well-known author, Bhisma Sahni, had written a novel about the way in which communal violence was triggered in pre-Partition India by fundamentalists and communalists of both sides. A serial based on it was made to be shown on television. Petitions were filed against its exhibition. A single Judge Bench of the Bombay High Court stayed the screening of the serial till the final disposal of the petition. A two-Judge Bench viewed the entire serial, and, having done so, vacated the stay. The matter reached the Supreme Court. Its judgment is a landmark.[2] On the point that concerns us at the moment, the Court recalled, and endorsed what one of our great Judges, Justice Vivian Bose had held in an earlier case:

> Vivian Bose, J. as he then was in the Nagpur High Court in the case of *Bhagwati Charan Shukla v. Provincial Government*, has indicated the yardstick by which this question has to be judged. There at page 18 of the report, the Court observed that *the effect of the words must be judged from the standards of reasonable, strong-minded, firm and courageous men, and not those of weak and vacillating minds, nor of those who scent danger in every hostile point of view. This in our opinion is the correct approach in judging the effect of exhibition of a film or of reading a book. It is the standard of ordinary reasonable man* or, as they say in English law, 'the man on the top of a Clapham omnibus.'

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[1] *Bhupal Chandra Ghose v. Arif Ali*, A 1974 SCC 255; see also *Madhu Limaye v. S.D.M, Monghyr*, AIR 1971 SC 2486.

[2] *Ramesh s/o Chotalal Dalal v. Union of India*, (1988) 1 *Supreme Court Cases*, 668.

That is one of the criteria that the Bombay High Court had used in striking down the ban on the Godse book: the Marathi that Gopal Godse has written is so Sanskritized that the ordinary man will have considerable difficulty in following the book, the Court said; and that is one reason why it is unlikely that, upon reading the text, he will get inflamed in the manner that the Government says it apprehends. First off, the book or publication must be read as a whole:

> . . .a passage here or a passage there, a sentence here or a sentence there, a word similarly, may if strained and torn out of context supply inflammatory matter to a willing mind. But such a process is impermissible. We must read the book as a whole, we must not ignore the context of a passage and we must try and see what, reasonably, would be the reaction of the common reader. If the offending passages are considered in this light, the book shall have to be cleared of the charge leveled against it . . .

While noting that Godse's language is powerful, that he has written the book with a definite purpose, the Court held that the language is so Sanskritized that the ordinary reader will not be able to find the incendiary material in it which the Government is claiming marks the whole book. To quote the Court:

> . . . we have a fair acquaintance with the Marathi language but we must frankly confess that many a passage had to be read with more than ordinary care in order to appreciate why it is said to be of an objectionable nature. A common reader has, we suppose, neither the leisure nor the learning to digest the wealth of words which the book contains. He shall have to delve deep into the book to resurrect some stray incendiary material . . .

How many common readers are liable to wade through a 669-page book, full of citations, cross references, and the rest, and then go on to cause a general breakdown of public order?

Almost a textbook case that refutes the Gujarat Government's assertion occurs in the Supreme Court's judgment, *S. Rangarajan v. P. Jagjivan Ram*.[1] A film was produced, *Ore Oru Gramathile*. It was cleared by the Censor Board. Looking for an issue, some persons commenced agitations, charging that the film was against reservations. They threatened to burn down theatres that exhibited it. Citing the threat of violence and disorder, the Government of Tamil

[1](1989) 2 SCC 574.

Nadu banned it. The Madras High Court upheld the ban. The Supreme Court reversed the judgment in ringing terms.

The Court declared, "It is our firm belief, nay, a conviction which constitutes one of the basic values of a free society to which we are wedded under our Constitution that there must be freedom not only for the thought that we cherish, but also for the thought that we hate." And this is not to be an abstract commitment. The Court held that the danger which is alleged to be liable to follow the dissemination of an idea must not be remote, conjectural or far-fetched; it must be proximate and it must have a direct nexus with what is being said or exhibited. To warrant restriction by the State, "The expression of thought should be intrinsically dangerous to the public interests. In other words, the expression should be inseparably locked up with the action contemplated like the equivalent of a 'spark in a powder keg'."

Second, while the Tamil Nadu Government and others had been pleading that the exhibition of the film would create very serious law and order problems in the state, while they had been citing the threats held out by several groups and their warnings that they would proceed to damage theatres screening the film, the Court observed:

> We are amused yet troubled by the stand taken by the state Government with regard to the film which has received the National Award. *We want to put the anguished question, what good is the protection of freedom of expression if the state does not take care to protect it?* If the film is unobjectionable and cannot constitutionally be restricted under Article 19(2), freedom of expression cannot be suppressed on account of threat of demonstrations and processions or threats of violence. *That would tantamount to negation of the rule of law and a surrender to blackmail and intimidation. It is the duty of the State to protect the freedom of expression since it is a liberty guaranteed against the State. The State cannot plead the inability to handle the hostile audience problem. It is its obligatory duty to prevent it and protect the freedom of expression.*

The Court concluded its judgment with words which apply in particular to the sort of circumstances which we are considering. It said:

> *Freedom of expression which is legitimate and constitutionally protected, cannot be held to ransom by an intolerant group of people. The fundamental freedom under Article 19(1)(a) can be reasonably*

> *restricted only for the purposes mentioned in Article 19(2) and the restriction must be justified on the anvil of necessity and not the quicksand of convenience or expediency. Open criticism of government policies and operations is not a ground for restricting expression. We must practice tolerance to the views of others. Intolerance is as much dangerous to democracy as to the person himself.*

That is the law. That is the mandate of the Constitution. How does the ban by the Gujarat Government look in their light?

Postscript: The Gujarat High Court struck down the ban. The matter came up in the Supreme Court. In spite of repeated queries from the Court, the representative of the Gujarat Government could not say whether the Gujarat Government was going to challenge the decision of the High Court. The Supreme Court kept the case on its books. Thus, the ban became infructuous.

16.

Master strategies

Here we are breaking each other's heads over Partition when the man who presided over it has already assumed responsibility for so much that happened. Here is what we find in Stanley Wolpert's *Shameful Flight:*

> When asked how he felt about his Indian viceroyalty eighteen years after Partition, Mountbatten himself admitted to BBC's John Osman, when they sat next to each other at dinner shortly after the 1965 Indo-Pakistani War, that he had got things wrong. Osman felt sympathy for the remorseful sixty-five-year-old ex-Viceroy and tried to cheer him, but to no avail. Thirty-nine years after the meeting he recalled: 'Mountbatten was not to be consoled. To this day his own judgement on how he had performed in India rings in my ears and in my memory. As one who dislikes the tasteless use in writing of . . . 'vulgar slang' . . . I shall permit myself an exception this time because it is the only honest way of reporting accurately what the last Viceroy of India thought about the way he had done his job: 'I fucked it up'.[1]

Just like us, isn't it, that we should be expelling each other, and breaking our heads over what others had done!

But that is master strategy!

The Red Queen strategy

"The Queen turned crimson with fury, and, after glaring at her for a moment like a wild beast, began screaming, 'Off with her head! Off with her . . .,'" when Alice couldn't say who the gardeners she didn't know, were . . .

"Off with their heads," said the Red Queen as she saw the gardeners hastily painting the roses . . .

The Indian Express, August 2009.

[1]Stanley Wolpert, *Shameful Flight*, Oxford University Press, New York, 2006, p 2.

" . . .in a very short time," into the croquet game, "the Queen was in a furious passion, and went stamping about, and shouting, 'Off with his head!' or 'Off with her head!' about once a minute . . ."

"Alice began to feel very uneasy: to be sure, she had not as yet had any dispute with the Queen, but she knew that it might happen any minute, 'and then,' thought she, 'what would become of me?' They're dreadfully fond of beheading people here: the great wonder is, that there's anyone left alive!'"

You see, as we know from *Through the Looking Glass,* "The Queen had only one way of settling all difficulties, great or small: 'Off with his head!' she said, without even looking round . . ."

That is the way to mete out justice. But in doing so, you must strictly follow the Red Queen in procedure too:

- ❒ The sentence must be executed before it is pronounced.
- ❒ The sentence must be pronounced before the verdict is settled.
- ❒ The verdict must be settled before the arguments are commenced.
- ❒ The arguments must be concluded before the evidence is examined.
- ❒ The evidence must be examined before it is collected.

And so, "Off with his head!"

The Cheshire Cat strategy

But what are you to do when they all lose because of you, and they bay for *your* head?

"But how have we *lost?"* you must demand. "We had 136 seats. We expected to gain an additional 30. That would have taken us to 166 seats. All that has happened is that, instead of gaining 30, we have come short by 30. We are now 106. Our projections turned out correct. Just the sign played mischief. Where is the question of defeat?"

In fact, 'The result places us in a position that is even better than in 2004. Then, we were just one of the Opposition parties—the Communists, the SP . . . They have all been wiped out. The entire Opposition space is now ours . . . And this is the fulfilment of our vision. Thirty years ago, we had set out to end the monopoly of the

Congress. With the victory of the Congress, with our not winning, and the defeat of the rest, we have succeeded in creating a bi-polar polity. Where is the reason for defeatism?"

Hence, as there has been no defeat, there is no reason for any inquiry-*shinquiry* into so-called reasons of so-called defeat.

Next: in fact we have already constituted a committee to inquire into the reasons for defeat. But the names are being kept secret.

Next: we have already sent selected persons to seek views of our state units as to the reasons for defeat. And our respected colleague AB will collate their observations in a report.

Next: no, he shall not collate their observations. He shall prepare a report on the basis of their observations.

Next: no, he shall not prepare a report on the basis of those observations for they are about the past. He shall prepare a report on "The Way Ahead".

Next: no, he shall not prepare any report on any "Way Ahead." He shall prepare a paper listing suggestions that have emerged for "The Way Ahead".

Next: no, he shall not write the suggestions down at all. To start the discussion, he shall mention a few points—briefly—about "The Way Ahead".

Hence, no report was tabled. First, there was no report. Second, there was no table. What the media are reporting is an imaginary document.

. . . 'How do you like the Queen?' said the Cat in a low voice.
'Not at all,' said Alice: 'she's so extremely . . .'—just then she noticed that the Queen was close behind her, listening—so she went on, '. . . likely to win, that it's hardly worth while finishing the game.'
The Queen smiled and passed on.
'Who are you talking to?' said the King, going up to Alice, and looking at the Cat's head with great curiosity.
'It's a friend of mine—a Cheshire Cat,' said Alice: 'allow me to introduce it.' [As you remember, this cat was exactly like the report: she could have her head appear, as it did now, without the rest of her body.]
'I don't like the look of it at all,' said the King, 'however, it may kiss my hand if it likes.'
'I'd rather not,' the Cat remarked.
'Don't be impertinent,' said the King, 'and don't look at me like that!' He got behind Alice as he spoke.

'A cat may look at a king,' said Alice. 'I've read that in some book, but I don't remember where.'
'Well, it must be removed,' said the King very decidedly, and he called the Queen, who was passing at the moment, 'My dear! I wish you would have this cat removed!'
'I'll fetch the executioner myself,' said the King eagerly, and he hurried off.
Alice thought she might as well go back, and see how the game was going on, as she heard the Queen's voice in the distance, screaming with passion . . .
When she got back to the Cheshire Cat, she was surprised to find quite a large crowd collected round it: there was a dispute going on between the executioner, the King, and the Queen, who were all talking at once, while all the rest were quite silent, and looked very uncomfortable.
The moment Alice appeared, she was appealed to by all three to settle the question, and they repeated their arguments to her, though, as they all spoke at once, she found it very hard indeed to make out exactly what they said.
The executioner's argument was, that you couldn't cut off a head unless there was a body to cut it off from: that he had never had to do such a thing before, and he wasn't going to begin at his time of life.
The King's argument was, that anything that had a head could be beheaded, and that you weren't to talk nonsense.
The Queen's argument was, that if something wasn't done about it in less than no time she'd have everybody executed, all round. (It was this last remark that had made the whole party look so grave and anxious) . . .

But what are you to do when the Queen turns on *you?*

The legal eagle strategy

"But after quoting Jinnah's singular—'We are going to be a secular State'—speech, did you not say, 'I believe that this is the ideal that *India*, Pakistan as well as Bangladesh . . . should follow'?" the cussed demand. "Did you not yourself write, 'There are many people who leave an inerasable mark on history. But there are a few who actually create history. Qaid-e-Azam Mohammed Ali Jinnah was one such rare individual . . . My respectful homage to that great man'? How then are you less liable than the one you have executed?"

When faced with such cussedness, field the resident lawyers.

"My Lords, when my client said 'India', he did not mean India as we know it. But *Akhand Bharat*. Now, as my Lords know, *Akhand Bharat* includes Pakistan. And my Lords, in that expression, *'includes Pakistan'*, the word *'includes'* is manifestly and intentionally

redundant. Hence, my Lords, when my client said 'India', he meant 'includes Pakistan', and when he said 'includes Pakistan' he meant Pakistan. What he said therefore reads, 'The Qaid-e-Azam's formulation is an ideal for *Pakistan, Pakistan and Bangladesh*".

"But what about paying *'homage*? Did he not say, 'My respectful *homage* to this great man'? Has the noted inquisitor, Karan Thapar, not pointed out that according to the Oxford Dictionary, 'homage' means *'acknowledgement of superiority, dutiful reverence'?* Where has the condemned man expressed anything equivalent to 'dutiful reverence'?"

"That is the problem, my Lords, these people read too much, and too superficially. The cleverness, the tactical strategy, if I may say so, is right there, in that very word, '*homage*'. You see, this cussed assaulter himself has quoted the meaning of 'homage' as 'acknowledgement of superiority'. In paying 'homage' my client was not acknowledging the Qaid-e-Azam's superiority, *but his own*. Moreover, my Lords, these words were written for purely *tactical reasons*. They were written to disorient the Pakistanis so that we may vanquish them that much more easily."

But how can words be twisted like this? How can "*India*" mean "*Pakistan*"? How can acknowledging the superiority of the other become affirming one's own superiority?

Aren't there 364 unbirthdays in a year, and only one birthday? Humpty Dumpty demands. So, you have 364 days for unbirthday presents in a year,

> *"And only* one *for birthday presents, you know. There's glory for you!"*
> *"I don't know what you mean by 'glory',"* Alice said.
> *Humpty Dumpty smiled contemptuously. "Of course you don't—till I tell you. I meant 'there's a nice knock-down argument for you!'"*
> *"But 'glory' doesn't mean 'a nice knock-down argument',"* Alice objected.
> *"When I use a word,"* Humpty Dumpty said, *in rather a scornful tone, "it means just what I choose it to mean – neither more nor less."*
> *"The question is,"* said Alice, *"whether you can make words mean so many different things."*
> *"The question is,"* said Humpty Dumpty, *"which is to be master — that's all."*

But will the lawyer go so far as to advance *such* arguments for a client? Will he not worry that doing so may affect his credibility?

When he does so for the Ketan Parekhs day in and day out, and that, far from diminishing his credibility, is what leads people to call him "among the country's foremost legal brains," why will he not do so for the helmsman?

Enforce principle, uphold ideology

"The lower down leaders must resign owning moral responsibility for the defeat in their states."

But on that principle, why should the top leaders not resign?

"Why should we resign when we have already accepted moral responsibility?"

"And be it noted, whether we win or lose elections, we shall never depart from our core ideology of Hindutva."

But what *is* Hindutva?

"As the Supreme Court has itself said, it is 'a way of life.'"

But isn't Islam also "a way of life"? Isn't Christianity? Indeed, isn't the drug addiction of the hippie "a way of life"?

Binding strategy

Your chieftains are at each other? Make them commit a crime collectively. Let them stab one of their own in each other's presence. Each will know that everyone has seen him drive the knife in. *That* is what will bind them. And no one will accuse the other, to boot, lest his own deed is brought to light.

After all, events are moving so fast. High time you convert the Mutual Projection Society into the Mutual Protection Society.

The dead horse strategy

The final strategy is spelled out in the latest issue of *The Other Side*, George Fernandes' *Journal of socialist thought and action*, and requires the littlest adaptation for our context. I will transcribe it almost literally. "When you discover that you are riding a dead horse," the journal reminds us, "the best strategy is to dismount and get a different horse." However, in our political parties more advanced strategies are employed:

1. On the authority of the *Gita*, declare the horse as "*Not* dead" —for the scripture teaches us, "What is real is the soul, not the body; and the soul was never born, it never dies."
2. Buy a stronger whip.

3. Wield it on anyone who says the horse is dead in spite of the *Gita*—for obviously, he who doubts the *Gita* has repudiated our core ideology.
4. Declare, firmly, that the horse is *not* dead, and, therefore, nothing needs to be done.
5. Pressed, announce that a committee shall circumambulate the horse, and, if necessary, suggest potions to revive it; but, so as not to unnerve the horse, ensure that the committee remains secret.
6. Launch a study of our ancient scriptures to see how our revered ancestors rode dead horses. Anyone who doubts that they did, has obviously repudiated our core ideology, and, so, for him, the whip as in (3) above.
7. Wait for the next breeze—as it sways the horse's mane, even the negativists shall see that the horse is alive and well.
8. Harness several dead horses to accelerate the speed.
9. Locate younger jockeys.
10. Coach them that they shall ride the horses, not jockey.
11. He who points out that the younger jockeys also happen to be the heavier ones, is out to discourage the horses, and distract the jockeys. So, for him, the whip as in (3) above.
12. Calculate and show that, as the dead horses do not require any diet, much less geriatric supplements, to energize and motivate them, their net contribution is not just positive, it is incalculable—zero divided by zero, as Aryabhatt would have proven, if only he had been asked, is incalculable, hence infinite.
13. Redefine "running and winning races"—for, obviously, the horse that lies unmoved in the midst of the world's frenzy and bustle, is the real *sthith pragyan*, and, as our scriptures have so clearly proclaimed, the *sthith pragyan* is the real victor.
14. Finally, of course, promote the dead horses to the core group.
15. He who now entertains a doubt about them has not just repudiated our core *ideology*—for that is reverence for our leaders—he has repudiated our core *group*. Hence, for him, not the whip as in (3) above. For him, expulsion.

That is what will prove that the horses are not dead. They can throw a kick.

17.

We Must Have No Price, and everyone must know that we have no price

"Arun Shourie has attacked the Chief Minister, A.R. Antulay, because the latter has opposed America's decision to give arms to Pakistan . . . Arun Shourie's well-known connections with the American CIA . . . He was got a job at the World Bank . . . Since his return to India, he has been using the pretext of his son's illness to regularly visit his bosses abroad . . ."

Across the top of the page was a photograph of our helpless little son laughing away in my arms.

Though twenty-seven years have gone by, I still remember the smear that a glossy magazine put out when I wrote the series that led Mrs Gandhi to eventually have Antulay resign. That was a load of nonsense, of course. It constituted no answer to the facts that had been printed. Even that bit about the CIA was of no consequence. After all, it was a conventional slur in those days—Mrs Gandhi herself had insinuated that a "foreign hand" had been behind even as saintly a person as JP and his movement. It was that bit about "using the *pretext* of his son's illness to regularly visit his bosses abroad" that infuriated me no end. The least of it was that I had scarcely been abroad since I had returned during the Emergency—only once after our child had been reduced to a handkerchief by the sedatives he was fed by doctors here and we were told to urgently take him to London. It was the *pretext* business.

Pretext? PRETEXT? My head screamed. Our son could not walk: thirty-four now, he still cannot. He could not stand: he still cannot. He could not use his right hand and arm: he still cannot. He could see only as if through a tunnel: that is still the limit of his vision today. He

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The Indian Express, September 2009.

could barely speak: he still speaks syllable by syllable. And here were some swine who said his illness was a *pretext* that I was using.

I sued the magazine for defamation. Through its lawyer—quite a famous man in Bombay at the time, and, I am sure, a very highly priced one—the magazine ensured one adjournment after another. Eventually, it filed an affidavit: through this sworn document and its famous lawyer, the magazine said we hold Arun Shourie in the highest esteem; indeed, he has blazed new trails in Indian journalism; far from having proof for what we published, we do not believe a word of what was printed, it swore; we only wanted to alert our readers to the kind of things that are being said even about such a person in our society . . .

"They can drag the case on forever . . ." I was advised. "In the end, you will have to settle for an apology . . . They are prepared to print straightaway the apology you draft . . . Why not settle the matter? Why not draft the apology you want printed? They will print it promptly . . ."

I drafted an abject text for the apology. They printed it—conspicuously. For all I know, gleefully. That I succumbed to the advice burns my heart to this day.

This time round also, there has been the usual paste of motives. "These have been the pampered boys of the BJP . . . They came to the Party only for cream. As the Party, having lost the elections, cannot give them any cream now, they are hurling these accusations . . . He is doing this only for publicity. He wants to be a political martyr. We will give him the opportunity . . . He is saying all this only because he got to know that he will not be given a third-term in the Rajya Sabha . . ."

Nor was I the only one who had such pejoratives flung at him. Jaswant Singh had written a letter asking the Party leadership to hold those who had been responsible for the electoral campaign and defeat. He has done so, they said, "only because he was upset that he would be losing a room in Parliament"! Yashwant Sinha too had demanded that the Party make an honest and open assessment of the shortcomings that had led to its defeat. He had himself won the Lok Sabha poll, and handsomely. But he was dubbed "a frustrated politician" in the stories that were planted.

Mr Advani had been maintaining that he had not known about various aspects—which particular aspect seemed to vary with the

statement—of the Kandahar exchange of terrorists for hostages. Jaswant Singh disclosed facts that put Mr Advani's account in question. Brajesh Mishra set out further facts that nailed Mr Advani's version even deeper. He raised, for instance, the central question: how is it that the plane was not disabled as it stood on the tarmac for 45 minutes in Amritsar? Yashwant Sinha endorsed what Mishra had stated. With these statements, four members of the Cabinet Committee on Security—that is, excluding Mr Vajpayee, all four other than Advaniji—had called Mr Advani's version in question, for, George Fernandes had already said that Mr Advani had perhaps forgotten that he had been in and participated in the meetings at which each of the decisions had been taken.

"Mr Mishra's statements are unfounded, unfortunate and politically motivated," declared one of the current loudspeakers of the BJP. "He is not a member of the BJP."

What had the veracity or otherwise of Mishra's statements to do with his being or not being a member of the BJP? He was the National Security Advisor at the time as well as the Principal Secretary to the Prime Minister. He had participated in every single meeting and decision relating to Kandahar. Neither the spokesman of the moment nor others holding Party offices at the time could claim to have known first hand anything at all about what had transpired then. Nor were they producing or even pointing towards any documentary record to show that Mishra was wrong. Did those formulaic words—"unfounded, unfortunate"—prove the facts to be otherwise?

Just as important is another question, indeed from the point of view of the media even more important one: is there another country in which such words are taken to be "refutations"? Is there one in which they are even reported as they are here?

As for "politically motivated"—not one, but two things stand out each time the words are flung. Everyone has a motive, it seems, except them! Second, in the reckoning of our politicians, the most devastating abuse is that the other fellow is *"politically* motivated"!

Gandhiji's rules

As usual, Gandhiji's rules, sprinkled throughout his writings, speeches, letters, are an excellent guide, even though for us pygmies, trying to abide by them taxes one to the limit.

"I do not read newspapers as a rule, but look at the enclosed in *The Leader* . . ." writes Gandhiji answering a series of letters from C.F. Andrews against the *Khilafat* movement that Gandhiji has launched.[1] Those first few words—*"I do not read newspapers as a rule* . . ."— are the gem that should be our first rule! For one thing, it is not just that the rule is much easier to follow than the others, it is something to which the media itself pushes us these days. In Gandhiji's case the reason, of course, was that the newspapers dealt with matters so ephemeral that they had little bearing on his quest—of freedom for India, of the inner search. Today, obsessed with the "breaking news" of the moment; obsessed with any and every thing that they can inflate into the sensation of the moment, the media deals in even more evanescent flickers.

Second, as for calumny, Gandhiji never answered it, his rule being, *"Public men who wish to work honestly can only rely upon the approbation of their own conscience. No other certificate is worth anything for them . . ."*[2]

Third, as for criticism, a letter from him to Rabindranath Tagore at the height of the agitation against the Rowlatt Acts has a typical gem. It was well known that Tagore had not been well disposed towards the new methods that Gandhiji was introducing into Indian public life. Tagore had not been well. But Gandhiji had just learnt that he was giving lectures at Benares. Hence the letter requesting a message:

> . . .I venture to ask you for a message from you, a message of hope and inspiration for those who have to go through the fire. I do so because you have been good enough to send me your blessings when I embarked upon the struggle. The forces arrayed against me are, as you know, enormous. I do not dread them for I have an unwavering belief that they are all supporting untruth and that if we have sufficient faith in truth it will enable us to overpower them. But all forces work through human agency. I am, therefore, anxious to gather around this mighty struggle the ennobling assistance of those who approve it. I will not be happy until I have received your considered opinion in regard to this struggle which endeavours to purify the political life of this country. *If you have seen anything to alter your first opinion of it you will not hesitate to*

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[1]Mahadev Desai, *Day-to-Day With Gandhi,* Volume II, April 1919–October 1920, Sarva Seva Sangh Prakashan, Varanasi, 1968, pp. 163-65.

[2]Letter, 17 January 1918, *Collected Works,* Volume 14, Item 79, p. 156.

> ***make it known to me. I value even adverse opinions from friends for though they may not make me change my course, they serve the purpose of so many light-houses to give me warnings of danger lying in the stormy paths of life . . .***[1]

As for misrepresentation, Gandhiji's rule is prudence itself. "I am used to misrepresentation all my life," he writes in *Young India* in a typical passage. "It is the lot of every public worker. He has to have a tough hide"—and then the operational rule: *"Life would be burdensome if every misrepresentation has to be answered and cleared. It is a rule of life with me never to explain misrepresentations except when the cause required correction. This rule has saved much time and worry."*[2]

Insulating circumstances

Given what we might call their "status", the Party spokesmen must have been mighty thrilled at the strong words they were launching. As the words I have used above—"swine," for instance—themselves indicate, I am as yet far from adhering to Gandhiji's rules. Even so, the pejoratives of the Party spokesmen had absolutely no effect. And that for a reason. Since I began writing in India thirty-five years ago, at every turn, smears have been hurled at my associates and me: the result is that I no longer care for them. But it isn't just that I have become used to them.

To begin with, I wear two thick layers of insulation.

The first insulation—the impenetrable one—is that very child; and his love which has made him the center of so many lives; and his laughter which you can hear three houses away. I lose a job? I have but to compare my circumstance with that of our son—and I at once see the occurrence to be a trifling one in comparison. Someone hurls abuse? I have but to ask, "Does it affect this child's love for all of us? Will it dim his laughter?"

Second, because of our circumstances, my wife, our relatives, and I lead cloistered lives. We get next to no magazines, none at all from

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[1]Mahadev Desai, *Day-to-Day with Gandhi*, Volume II, April 1919–October 1920, Sarva Seva Sangh Prakashan, Varanasi, 1968, pp. 18-19.

[2]*Collected Works*, Volume XXX, p. 488.

among those that claim to be on current affairs. As for Indian newspapers, we get just two, and we just about skim through them. We don't, therefore, get to hear of or read most of what commentators and others have said. On occasion, some well-wisher will ring up and say, "Have you seen the vicious piece X has written about you? You really should read it." But why should I? I am not looking for a job that I should worry about what prospective employers may think after they have read the piece. One of the greatest beings of our times, the Dalai Lama provides an excellent example even in so mundane a matter. In his instructive book, *The Wise Heart,* the American Buddhist teacher, Jack Kornfield narrates:

> A reporter once pressed the Dalai Lama about his oft-quoted statement that he does not hate the Chinese Communists, in spite of their systematic destruction of Tibet. In reply, the Dalai Lama explained, 'They have taken over Tibet, destroyed our temples, burned our sacred texts, ruined our communities, and taken away our freedom. They have taken so much. Why should I let them also take my peace of mind?'[1]

When the Dalai Lama will not let even the Chinese Communists rob his peace of mind even after the horrors they have inflicted, why should we let mere mouthpieces ruffle us with mere adjectives?

Mention of the Dalai Lama, of what has been done, and is being done to his people and culture and religion leads one to the next antidote: a sense of proportion, of humility. Recall for a moment the lives of the Buddha, of the Lokmanya, of Gandhiji, of Solzhenitsyn, of Mandela, of others who stood up. The worst kind of smears were hurled at the Buddha: those whose grip was being loosened by his teaching even got a young girl to say that the Buddha had made her pregnant. At least two attempts were made to kill him. The Lokmanya was not just traduced and reviled, he was sent off to Mandalay to spend six long years in solitary confinement—years that broke his health, so much so that when at long last he reached his abode, the watchman would not let him in, so unrecognizable had he become. The years and years that Solzhenitsyn and Mandela spent in prison, in the former case in deathly labour camps. Jesus and Gandhiji were not just reviled, they were killed. When this is what

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[1]Jack Kornfield, *The Wise Heart,* Bantam Dell, New York, 2008, pp. 249-50.

has been done to these giants, who are we ants to complain, and that too just because some adjectives have been flung in our direction?

A bit of conceit also helps! As the pejoratives are hurled one's way, we are bound to ask, "*Who* are these persons who are saying all this?" Are they the Seervais of their field, of *any* field? That is, are they scholarly authorities so that one has to take their opinion seriously? Is a Baba Amte saying, "No, this was not expected of you?"—for, then one would naturally have to reflect on one's conduct. To the contrary. So many of them are lawyers—who will argue either side of the case, if the reward is right! Most of them are official spokesmen for political parties—they take it to be their duty, *ex officio,* to twist facts and turn out opinions that the Party's convenience requires. And when parties make *lawyers* their *spokesmen*? We are entitled to feel doubly secure!!

This time round, their mettle was put on display sooner than I could have expected for, they had but to hurl their epithets, and the unexpected happened! Shri Mohan Bhagwat, the *Sarsanghchalak* of the RSS, came to Delhi. The BJP was reeling from the aftermath of Jaswant Singh's expulsion and the ban on his book. My interview with Shekhar Gupta had been broadcast. Newspapers predicted "strong action" against me; some forecast expulsion from the Party. The RSS office announced that Shri Bhagwat would address the press. Hosts of journalists from TV channels and newspapers were present. It was one of the most widely watched press conferences. In my case, Mohanji was asked as part of a question, " . . . do you think it was appropriate for a senior leader of any party to speak in the language that he used against his colleagues?" The expectation—in several quarters that I know!—was that the *Sarsanghchalak* would express strong disapproval, and that would give grounds for the leadership to act. To their great confusion, the head of the RSS pronounced, "You see, Arun Shourie is a very respected, senior intellectual. So I don't want to comment on what he has said about others, he should think about that." It was as if lightning had struck the spokesmen. Their resolve to give me the opportunity for martyrdom, was suddenly deferred?! Why should the pejoratives of persons with resolve so firm that it is deflected thus, and stale pejoratives at that engage one?

There are two further facts that give one heart. First, people do not go by a single deed, and most certainly not by the single smear.

If, after decades of work, the credibility of a writer is so fragile that a sudden smear can shatter it, then it isn't worth worrying about in any case. On the other side, can the smearing of the one who has revealed the facts, suddenly burnish the image of ones whose misdeeds have been in the public eye for decades, the consequences of whose negligence are before everyone at that very moment? Second, even in a society like ours—one in which so many *want* to believe the worst about everyone else; one in which the media broadcast *any*thing *any*one says about *any*one—people must at some stage see that smears do not refute facts.

For all these reasons, smears have little effect. I have come to conclude that, till we can learn to follow rules such as the ones Gandhiji prescribed, the best response to smears is the one that I was once told was the stock answer of a Marathi writer to his detractors' vituperations: Believe every vile thing that they are saying about me, he would say; believe the worst about me, the very worst they say, the very worst you can *imagine* about me—*but what about the facts?*

Hence, to begin with, we must be right on the facts. Second, we must have that thick hide so that we are not distracted by calumny. Third, as the ones we are exposing are definitely going to strike back—on the count of my friend, S. Gurumurthy, the number of cases, inquiries, raids, prosecutions, actions of various kinds that Rajiv Gandhi's Government instituted against the *Indian Express* exceeded *three hundred and twenty*—our conduct must be, it must for decades have been immaculate. And the reason is not just that the Empire *will* strike back. The even more vital reason is that the issue will be decided in the public mind not so much by the minutiae of evidence as *of the relative reputation of the writer and the ones he has written about*. That is why we should always bear in mind Vinoba's warning: "A single hole makes the pitcher unfit for holding water."[1]

But there is an even more significant positive reason also.

Conduct above all

In one who will stand up to Power—not just to those who happen to be in office at a particular moment, but to establishments that embody

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[1] *Vinoba ke Vichaar,* Volume I, Sasta Sahitya Mandal, New Delhi, 1963, p. 106.

Power: like the establishments of entrenched religions—conduct and character are everything. I remember how struck I was thirty years ago when I inquired from the *Navjivan Trust* about the circulation figures of Gandhiji's writings. The figures nail the point even today, and are worth pondering over, especially in this day of sound-byte journalism and the "breaking news" of this shift, to say nothing of the day.

The English version of Gandhiji's autobiography was first printed in 1927. The print order was a mere 6000 copies. The next printing was not needed till 1940, *thirteen* years later. This was the period when Gandhiji was quite the undisputed leader of the national movement and yet less than 500 copies of one of his most significant books were being absorbed by the market in a year. *Hind Swaraj*, which he often insisted was his testament, did no better: between 1925 and 1941 only 7000 copies of this little book were printed. His *Satyagraha in South Africa* was an indispensable account for understanding the evolution and conduct of the techniques of political action that were then moving the country. This account fared even worse: only 3000 copies of it were printed in 1924; a second printing was not needed till 1940.

Even the journals which he began and on which he relied, *Harijan* and *Young India*, saw their circulation dwindle. In the early stages, the circulation of *Harijan* had reached 40,000 and that of *Young India* 30,000. For a country of millions, these were not earth-shaking numbers. Moreover, the circulation did not always remain in the 30–40,000 range. In 1925, Gandhiji was concerned that the circulation of *Harijan* had dropped to 6000 and that of *Young India* to 5000. True, the Gujarati editions of his books sold a larger number of copies. Between 1927 and 1940, against the 6000 copies of the English edition of his autobiography, 50,000 copies of the Gujarati edition found buyers. But even 50,000 copies over the 13-year period—less than 4000 copies a year—in the language and region of the Mahatma himself are not a very impressive figure.

Why then were authors like Gandhiji so effective? Clearly because of the authenticity of their lives. In societies such as ours, one's life, one's deed, one's practice is the most effective medium of communication. The writings of Tilak Maharaj and Gandhiji were

influential because they were a part of and not a substitute for their authentic lives.[1]

We perceive the same phenomenon at work in reverse by looking at the politicians and leaders of today. Whatever they may write; howsoever eloquent their speeches might be; howsoever they may strain to invoke the name of Gandhiji and others, it all sounds so hollow. In fact, each time they invoke the names, people are reminded of the vast chasms between those great leaders and these puny and dishonest men who are trying to snatch the names to mislead the people. Hence, just as their authentic lives served as the communication of Tilak Maharaj, Gandhiji and others, the authentically dishonest lives of our current leaders rob their words and promises of all meaning.

Hence, conduct above all.

Learning to eat that gruel

Nor is the matter just one of the writer's conduct in the past. Nor is the reason for spotless conduct merely the negative one—to withstand the whip of those in authority.

There must be nothing that the subject of his exposures, or indeed anyone, can give him that would deflect him from proclaiming "Truth to Power." When their calumny does not work, *this* is what those who are being exposed look for desperately. What does this fellow want? What does he need? An exalted position? An honour? A luxurious vacation? Help for buying an apartment? Money? Expensive whiskey? Women? *What,* for heaven's sake?

It was in the office of my dear friend, Samiran Nundy, one of India's preeminent surgeons, that I first came across the scroll with that story about Diogenes. A burning hot afternoon. Diogenes is sitting as usual beneath the tree, sweating, scooping pasty gruel from a weathered bowl. At a distance, the Court philosopher is being carried home in a palanquin for his lunch and afternoon siesta. He lifts the curtain. "Who is that beneath the tree?" the richly robed philosopher asks his bearers. "No one of any consequence, Sir" they answer. "A fellow called Diogenes. A waster. All he does all day is sit under that tree, and yap with whoever comes along."

[1] I have taken the foregoing from an article of mine, "Why write at all?" published by *Indian Express* in October 1978.

"Take me to him" the philosopher directs.

He is lowered. He addresses Diogenes: "What are you doing, Diogenes?"

"Why, I am eating this gruel" Diogenes answers.

"You fool. If only you would learn to get along with the King, you wouldn't have to spend the rest of your life eating that miserable gruel."

"My dear Sir," answers Diogenes, "If only you would learn to eat this gruel, you wouldn't have to spend the rest of your life trying to get along with the King."

We must learn to eat that gruel.

We must have no price.

And everyone must know that we have no price.

When the issue is joined

In regard to issues, the first thing to do is to avoid: to avoid the activists' virus—one that attacks newspapermen as much as activists. There is a real injustice, a real case of wrongdoing. The activist or newspaperman chances upon the evidence. He takes up the issue. As he succeeds, more and more persons reach out to him, and point him in the direction of other wrongs. More and more information about such issues comes to him. He takes up issue after issue. One campaign of his succeeds after another. He now feels compelled to live up to the reputation he has acquired. So, he goes looking for issues. He discovers some, though they be of dwindling significance. When he can't discover them, he invents some . . .

Two consequences follow. First, people begin to think of him as a professional agitator. They come to conclude that pursuing issues is a profession with him. Second, as he rushes from one issue to the next, he is not able to pursue any one of them to a conclusion. His targets cease to fear him: "Just lie low for three-four days," I heard a politician tell another one about whose wrongdoing a newspaper had published evidence. "They will be after someone else soon."

I am not a knight-errant, Gandhiji said once. My job is not to redress every wrong.

We must not be grasshoppers. We should be crocodiles. If someone is so foolish as to put his leg—his wrongdoing—in our jaws, we must not let go—till the matter has been brought to a conclusion, a matter about which, as we shall see in a moment,

Gandhiji is again an excellent guide. For the moment, Lenin will do: "Fewer, but better."

Second, we must never take up an issue because we think doing so will please our employer or leader, or our party or group. Nor should we take up an issue out of the politician's disease: "We must stall the House today on fertilizer shortage. It will send a good signal to farmers." The reason is simple: the calculations of the employer, of the leader will change; the interest of the people will shift. For us the tests should be two—both are ever so visible in Gandhiji's campaigns. First, the issue, to use his phrase, is "an intolerable wrong." Second, we are personally committed to undoing it. "Committed" not in the sense that we are prepared to shout slogans about it. Committed in the sense that *we are prepared to shoulder the consequences of taking a stand on it.*

Third, Gandhiji insisted that we must pitch our demand at the minimum. In Champaran, his demand was merely that the Government appoint a committee to look into the distress of the indigo cultivators. That was enough to put the British rulers into a bind. If we set up the committee, they reasoned, everyone will conclude that we cannot stand up to this little troublemaker. When, on this reasoning, they don't set up the committee for months, the people get to see the nature of the British Government in India: if they won't even set up a committee to examine our condition, how can we believe their professions about being our concerned guardians? All that was necessary this time round was to suggest that an honest, open appraisal be undertaken, one that fixes responsibility for the electoral outcome. The leaders were immediately in the same dilemma. If we concede the demand, went the rationalization, we will be seen to be weak, and everyone down the line will conclude that we can be bullied. How will the Party be run once that happens? But by not agreeing to that simple request, they proved the point!

Fourth—and we have all read about the infuriating lengths to which Gandhiji went on this—every non-confrontational avenue must be explored before a confrontational course is adopted.

But once the conciliatory avenues have been blocked by the rulers and controllers, all options that one may personally have must be closed. Vinoba characterizes this as ***rassa kaat dene ki neeti***—"The policy of Cutting the Ropes." He recalls an incident. With their band,

two brothers have stormed the adversary's fort. The battle is about to go either way. One of the brothers runs over the ramparts—severing every rope that the band had used to climb into the fort. Neither the brothers nor their followers now have any way to escape. They fight as if to death . . . They vanquish the foe.

Implicit in this is the comment (of Emerson?) that the editor of one of the world's leading journals sent me while asking me to be absolutely explicit in the article that I was to submit against the Emergency: "When you strike at a King, you must kill him." None of the usual, "On the one hand, but on the other." The first blow must itself be nearly fatal. But it must never use up all of the evidence we have. As he is bound to deny the truth, we must be able to launch successive sorties with equally irrefutable facts.

Little can be accomplished without associates and colleagues: even a Solzhenitsyn needed, to use the title of his memoir about them, *Invisible Allies*—the ones who copied his manuscripts, who hid them, who smuggled them to the outside world; each one of those actions, if discovered, would have entailed cruel imprisonment for indefinite periods, at times even torture and death. The next lesson, therefore, concerns not issues and evidence but associates and colleagues. They are indispensable, and ever so often the cause of the greatest anxiety.

The first step must be to expect the least of anyone else: if others join, good; if they don't, well they don't. I remember how very upset I used to get, and soon learnt how needlessly I was upsetting myself when I saw life continue as usual in Delhi's social circles during the Emergency.

The second element must be continuous, incessant, uninterrupted communication with colleagues. Many are liable to be geographically dispersed. Each will be undergoing experiences different from the others, and will, accordingly, be reaching different conclusions about what should be done next. In any case, each will be completely preoccupied with his special responsibility. Most important, those who are being inconvenienced by the work will spread rumours about each associate to the others—to foment suspicion and doubt, to sow discouragement, to trigger discord. Only incessant communication can forestall the disruption.

But communication is not going to be enough. There must at

all times be trust—*the presumption* that our colleague is doing only what is best for the cause. This is the point that my friend, S. Gurumurthy has emphasized the most during 30 years of our association. Upon hearing the suggestion that one's colleague has said this or that about one, done this or that which was contrary to what had been agreed upon, one's *reflex* must be, "No, that just can't be the case." And one must firmly put down the tale-carrier. When I first joined an organization in which tale-carrying was endemic, I found a device to be decisive, so decisive that after I had used it twice, I was spared tales about what others were saying and doing. A colleague came and told me in great confidence that another colleague was spreading such and such rumour about me. Even as he was narrating his tale, I picked up the phone, dialed the colleague's extension. "X is here with me. He says you are telling people that I am doing Y, Z . . ." The tale-carrier was startled out of his wits: "For heaven's sake . . . put the phone down . . ." I had to do this just twice.

But the greatest bitterness comes not from backbiting. It erupts when a colleague leaves the endeavour. When he "deserts". That is the bitterness one must shield oneself against most of all—for, in a protracted engagement, some *will* leave. The model is again Gandhiji. He took up the cause of the *Khilafat* convinced that it was an issue that was of immense concern to every Muslim. He also felt that as the British were doing everything possible to divide the Freedom Struggle by widening the Hindu-Muslim divide, the taking up by Hindus of an issue dear to Muslims would counter British stratagems. He alighted upon Mohammed Ali and Shaukat Ali. He projected them on every occasion. He "sold his heart" to them. He would insist that they be invited to meetings that he was to address. He had Mohammed Ali anointed the President of the Congress. The agitation could not restore the *Khilafat,* of course. Turkey itself had gone beyond it. Soon enough, the Ali brothers concluded that they had no further use of Gandhiji. They would not answer his messages. They would not turn up for public meetings . . . Soon Gandhiji was being told that they were using dismissive words, even words bordering on the contemptuous for him. His close associates were very upset. Gandhiji counseled them to shed bitterness. "We must not be upset that they are no longer with

us. On the contrary, we should be thankful that they traveled with us this far . . ." Necessary insulation.

Patience

At all times, persons who fight for a cause are impatient to see the cause prevail. That impatience in a sense testifies to their commitment—that is the one thing they want, that their cause be realized; that it be realized here and now. But every change takes time—the deeper the change we want to effect, the longer it will take. For a long while, it seems as if all the effort that is being put in is having no effect at all. But, as Vinoba says, "The work that appears unsuccessful, after all only *appears* unsuccessful. The first few strikes for breaking a stone do seem to be useless and ineffective. But they do have their effect."[1]

Working with Ramnath Goenka taught us that just as setbacks would fall upon us from absolutely unanticipated quarters, help would arrive from quarters just as unexpected. Ramnathji has constructed a building which even to us seems to be in violation of a slew of regulations. Mrs Gandhi has moved to take possession of it in retaliation for what we are doing in the paper. I get a call. The person says that he used to be an officer in the Land and Development Office, though several years ago. He asks us to locate a circular that was issued fifteen years earlier and has since been forgotten. "That will help you," he says over the phone. But can't you help us get it? No, I don't have access to it, he says. But go to X in Chandni Chowk. He has been collecting circulars for years. That is all he does. He may have it. Gurumurthy and Kohli Sahib, who used to manage the press, rush to the person. Lo and behold! In that man's piles and piles of papers, the circular turns up . . .

"I have won," Ramnathji shouts—though the circular deals only with a trifling detail, he insists he has won. "I have won. I have won." "But how? *How?*" we want to know. "I now have an inch to put my toe," Ramnathji answers.

That was a vital thing we learnt from him: when you seem to have lost everything, look for a toehold; when you think you have won a great victory, look deep inside it for the tiniest virus you are sure to

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[1] *Vinoba ke Vichaar,* Volume I, *op. cit.*, p. 64.

find in it that, if left alive, will fell you in time . . .

"Every good movement," Gandhiji writes in *Young India,*

> passes through five stages: indifference, ridicule, abuse, repression, and respect. We had indifference for a few months. Then the Viceroy graciously laughed at it. Abuse, including misrepresentation, has been the order of the day. The Provincial Governors and the anti-Non-cooperation Press have heaped as much abuse upon the Movement as they have been able to. Now comes repression, at present yet in its fairly mild form. Every movement that survives repression, mild or severe, invariably commands respect which is another name for success. This repression, if we are true, may be treated as a sure sign of the approaching victory. But, if we are true, we shall neither be cowed down nor angrily retaliate and be violent. Violence is suicide. Let us recognize that power dies hard, and that it is but natural for the Government to make a final effort for life even though it be through repression. Complete self-restraint at the present critical moment is the speediest way to success.[1]

We have to substitute just a word or two, and Gandhiji's forecast applies to the issues we take up: for instance, the sequence applies not just to issues that we take *vis a vis* governments; it applies equally to issues we take up in regard to any and all figures of authority—the controllers of a church or a cult, the controllers of political parties . . . Similarly, it isn't just violence that is suicide. Exaggeration is. Untruth is—Gandhiji would, of course, see both exaggeration and violence as aspects of untruth.

Hence, patience. And perseverance. If our cause is just, we will be vindicated by time—either the correctives we have prescribed will be adopted or the consequences of not adopting those correctives will befall the organization and its controllers. If we have been wrong all along, and our forecasts and warnings do not come true, the sequence will teach us humility.

"Success"

A lesson in that last paragraph. For all too often, we get discouraged because we define "success" too narrowly. We champion a cause; we make a demand. If that cause does not prevail, if that demand is not conceded, we think the campaign or movement has failed. The traducers certainly proclaim as much. But recall the example of

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[1] *Collected Works*, Volume XIX, p. 414.

Champaran that was cited earlier; or, indeed, the current one, of requesting that the leaders institute an open, honest appraisal of the causes of electoral defeat. The matter would have ended at once had the British constituted the committee they eventually had to. The issue would have been over in a second if the Party leadership had instituted a credible, open inquiry. By *not* conceding the request, the Party leaders as much as the British at that time, *proved the point.*

More than anything else, a movement, a campaign succeeds by inducing the rulers and controllers to bare their fangs, so to say. By proclaiming the Emergency, by throwing the whole of the Opposition in jail, Mrs Indira Gandhi proved the point conclusively—to an extent that no amount of reasoning by even a saintly person like JP could have done. Similarly, consider an organization—an elected religious body, say the SGPC, an unelected religious *mutt,* a family business, a political party—not very different from a family business in so many cases! You make a simple suggestion: We should find out how the funds have been used; we should find out why we are losing market share; we should find out why so few young men are joining us these days. Who can insist that such questions should not be examined continually? The answers may be vital even for the survival of the organization. But to the controllers—haughty, and simultaneously insecure—the request looms as a challenge, as a clever ploy to bring in question the way the organization has been managed by them, it looms as an affront. When they move to squash a contrary point of view by invoking "discipline", they prove that the view they are enforcing cannot withstand discourse. When they dub everyone who persists in making that demand as a "deserter", when they are able to get the media to start referring to him as "the beleaguered expelled leader," they prove that what they want is not discipline but servility.

When they succeed in squashing the ones who were asking for something just, the controllers and rulers come to believe that their *modus operandi* has been clever, even brilliant; that *this* is the way to deal with these trouble-makers: the ailment therefore remains uncorrected, it swells. On the other side, as the controllers, having "successfully crushed the trouble-makers," deploy the same heavy hand against more and more persons, they invite the consequences that the few original "dissenters" could never have brought about.

Had the issue not been joined, had the crisis not erupted, people at large would not have come to know the real character of the rulers and controllers. The sequence unveils what reasoning could not have. The very "success" they celebrate prepares the way for eventual failure: the controllers seek to divide the "dissenters" by proffering a post or two to some of them; they "succeed" as some of them jump at the posts; but all that has happened is that the controllers have further debased norms, they have further corroded the character of the organization, they have made accepting lollipops even more customary. The opportunists jump to their side today, but the same opportunists will jump with equal alacrity to their rival tomorrow when he offers them the next allurement.

The real insulator

Often a writer is lucky enough to see his work have consequences, sometimes even under the most forbidding circumstances. As Solzhenitsyn said, and showed by his life and pen, a shout in the mountains has been known to start an avalanche. Often he works reposing faith in what Ram Swarup called "the seed value of ideas"—one never knows, he would counsel, which idea may take root in whose mind and be thus carried forward. Sometimes the writer testifies to the state of affairs not by what *he* is able to do to his society or State but by what is done by them to *him:*

. . .
Unko sholon ke rajaz apna pata to denge
. . .
Door kitni hai abhi subhe, bata to denge . . .

But every goal, howsoever noble, makes us dependent on others, and, therefore, as the *Gita* teaches, vulnerable. Obsession with it unsteadies the hand, and thereby makes us less effective.

Gandhiji's copious writings and speeches, even more than them Gandhiji's life translates this general teaching into a series of operational rules. Two of them will illustrate the point.

A young man writes to Gandhiji. You are my idol. I want to serve the country. I am prepared to sacrifice everything. Please guide me . . . Gandhiji responds in his typical way. Who am I to guide? There is God to guide both of us . . . But as one who has traversed this path,

and as one who is older than you, allow me to offer you one thing I have learnt from experience. I have seen many young men and women sacrifice their assets; I have seen them sacrifice their families; I have known them to sacrifice even their lives in service of our country *and in the end be consumed by bitterness for want of response*. Hence, before you set out on this road, remember that to "serve" is to "make sacred"; remember, that what one has to sacrifice is one's ego . . .

To insulate ourselves from being "in the end consumed by bitterness for want of response": we can see how very vital this is by noticing how bitter many exceptionally dedicated persons become after years of exemplary toil.

The second operational device springs up the moment we reflect on Gandhiji's oft-quoted responses to the heckling, "You say you are a man of religion, then why are you in politics?" In part, he says, because there is "no department of life which can be divorced from religion"; in part "because politics touch the vital being of India almost at every point"; in part because "politics encircle us today like the coil of a snake from which one cannot get out, no matter how much one tries. I wish therefore to wrestle with the snake."[1] The first response concerns what politics need. The second, what the country needs. It is the third that concerns us at the moment. Having to associate with all sorts of persons; having to see himself being punished, traduced, sent to jail, thwarted by persons who were infinitely tinier than him; having to confront the fact that very, very few were responding to his calls—for instance, his call to surrender official titles and honours; having several of the movements he launched peter out or go astray; having to see that instead of his lifelong ambition to bring about Hindu–Muslim unity, the communities were killing each other off; having in the end to see the country being partitioned; having in the end to see that no one was prepared to tread the path which he so fervently counseled for India, namely to bring into being, and *live* an alternate to Western civilization—what could provide a richer laboratory for discerning

[1]For the first two remarks, for instance, *Collected Works,* Volume XVI, Item 4, p. 5; for the third, for instance, *Collected Works,* Volume XVII, p. 406.

himself than the snake, for observing the working of his mind, for observing whether he had finally mastered his ego?

It is this fact—that in the ultimate analysis he had made all his activity a means for inner growth—that insulated him from the disappointing net results of his labours. As the quest was inner growth, "failure" was as useful, in many ways even more useful than what others would see as "success".

Once we attain that sort of detachment; once we execute that reversal of view; once the specific issue we take up is a device for something beyond the reach of others, then all we have to do is to just keep at it, just do what Churchill told his military commanders to do: just "Continue to pester, nag and bite."[1]

It may well be the case that we are not able to carry the issue through on our own. *But the rulers and controllers will make a mistake!* The movement against the Emergency had more or less fizzled out. But then Sanjay began his sterilization drive . . . Mrs Gandhi called the elections . . . Three of us had written mere letters. We knew, at least I knew that within two-three days, the matter would be over. But then they banned Jaswant Singh's book, and expelled him . . .

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[1]For a slender but telling account see his biographer's book of the same title, Martin Gilbert, *"Continue to Pester, Nag and Bite," Churchill's War Leadership*, Pimlico, London, 2004.

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